

## Donald Phillips

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**From:** Mike Montanye  
**Sent:** Wednesday, October 9, 2019 9:05 AM  
**To:** Donald Phillips  
**Cc:** Shari S. Groccia  
**Subject:** Video request

Please let me know when you are available to a conversation regarding a video request.

Lieutenant Michael Montanye  
Strategic Services  
Greenville Police Department  
252-329-3215 Office  
252-916-3900 Cell

**From:** [Rhonda Wilkerson](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from Rhonda Wilkerson (4426)  
**Date:** Monday, October 14, 2019 11:17:05 AM  
**Attachments:** [Audio Recording S1-200161\\_001\\_comand.wav](#)

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**From:** [Rhonda Wilkerson](#)  
**To:** [Donald Phillips](#)  
**Subject:** FW: Voice Message from 2526725476 / "WARD AND SMITH"  
**Date:** Monday, October 14, 2019 12:01:33 PM  
**Attachments:** [Audio Recording S1-200302\\_001\\_compand.wav](#)

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**From:** Avaya Aura Messaging <avayamsg@AAM.COGNC.NET>  
**Sent:** Monday, October 14, 2019 11:58 AM  
**To:** Rhonda Wilkerson <Rhonda.Wilkerson@AAM.COGNC.NET>  
**Subject:** Voice Message from 2526725476 / "WARD AND SMITH"

## Donald Phillips

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**From:** Donald Phillips  
**Sent:** Monday, October 14, 2019 6:04 PM  
**To:** mark.henriques@wbd-us.com; smg@wardandsmith.com  
**Cc:** Donald Phillips  
**Subject:** Interim ECU Chancellor Dan Gerlach Investigation--PRLR for Custodial LEA Recording(s)  
**Attachments:** N.C.G.S. 132-1.4A.PDF; NCGS 132-1 4A - Request for Disclosure of Recording.pdf; AOC-CV-270 (04.2017).pdf

### **PUBLIC RECORDS REQUEST FOR CUSTODIAL LAW ENFORCEMENT AGENCY RECORDING**

**Name of Requestor:** Mark P. Henriques, Esq.  
Womble Bond Dickinson (US) LLP  
*Attorneys for UNC System*

S. McKinley Gray, III, Esq.  
Ward and Smith, P.A.  
*Attorneys for Dan Gerlach*

**Date of Request:** 10/14/2019  
**Date of Incident:** 09/25/2019  
**GPD Officer(s):** None  
**GPD File No.:** None

Mr. Henriques and Mr. Gray:

I understand that you are interested in viewing City of Greenville, Greenville Police Department (“GPD”) traffic/public safety camera recordings from September 25, 2019 regarding an investigation of Interim ECU Chancellor Dan Gerlach.

**Overview of the law regarding law enforcement recordings:** Regarding your request to view the recording(s) at issue, please find attached N.C.G.S. § 132-1.4A, which became effective October 1, 2016. In a nutshell, this law creates very specific procedures for a person who is requesting to either **view** (seek “**disclosure**”) or obtain a **copy** (seek “**release**”) of any custodial law enforcement agency recording (traffic/public safety camera, body worn camera, dashboard camera, or any other audio or video recording). Requests for “disclosure” of GPD recordings are handled by GPD and the Chief of Police allows or denies “disclosure.” A recording can only be “released” by superior court order and only after the person seeking “release” has first “filed” a Petition for Release in superior court.

**If you want to VIEW the GPD recording(s):** I have attached the GPD *Request for Disclosure of Recording Form*. Each of you will need to complete this form to determine your eligibility to view the portions of the requested recordings. Please then contact Lt. Michael Montanye regarding specific questions and scheduling of those recordings that are applicable to your request for disclosure. Here is Lt. Montanye’s contact information:

Lieutenant Michael Montanye  
Strategic Services  
Greenville Police Department  
Email: [mmontanye@greenvillenc.gov](mailto:mmontanye@greenvillenc.gov)

Telephone: (252) 329-4835

**If you want to RECEIVE A COPY of the GPD recording(s):** For your convenience, I have attached the *Petition for Release of Custodial Law Enforcement Agency Recording Form* (AOC-CV-270). Please complete this form and file this form with the Pitt County Clerk of Superior Court. You will also need to calendar the matter for hearing with the Clerk of Superior Court and the Superior Court Trial Court Coordinator. You will need to properly give notice to all parties as required by the statute. As the attorney that will be handling the matter for the City, I would respectfully request to be copied as well on all documents you file. **If you decide to file a Petition, please give me a call before you file the Petition so that we can discuss the filing and logistics in greater detail.**

**Please note that I am out of town at a CLE, but will be back in the office on Thursday.** Feel free to call me if you have any questions or would like to discuss. My direct line is (252) 329-4331. If you need to reach me before Thursday, please call my cell (252) 916-9803.

Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**§ 132-1.4A. Law enforcement agency recordings.**

(a) Definitions. – The following definitions apply in this section:

- (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
- (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
- (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
- (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
- (5) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.
- (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
- (7) Release. – To provide a copy of a recording.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

(d) Disclosure; Factors for Consideration. – Upon receipt of the written request for disclosure, as promptly as possible, the custodial law enforcement agency must either disclose the portion of the recording relevant to the person's request or notify the requestor of the custodial law enforcement agency's decision not to disclose the recording to the requestor.

The custodial law enforcement agency may consider any of the following factors in determining if a recording is disclosed:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Release of Recordings to Certain Persons; Expedited Process. – Notwithstanding the provisions of subsection (g) of this section, a person authorized to receive disclosure pursuant to subsection (c) of this section, or the custodial law enforcement agency, may petition the superior court in any county where any portion of the recording was made for an order releasing the recording to a person authorized to receive disclosure. There shall be no fee for filing the petition which shall be filed on a form approved by the Administrative Office of the Courts and shall state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording. If the petitioner is a person authorized to receive disclosure, notice and an opportunity to be

heard shall be given to the head of the custodial law enforcement agency. Petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court.

The court shall first determine if the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section. In making this determination, the court may conduct an in-camera review of the recording and may, in its discretion, allow the petitioner to be present to assist in identifying the image or voice in the recording that authorizes disclosure to the person to whom release is requested. If the court determines that the person is not authorized to receive disclosure pursuant to subsection (c) of this section, there shall be no right of appeal and the petitioner may file an action for release pursuant to subsection (g) of this section.

If the court determines that the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section, the court shall consider the standards set out in subsection (g) of this section and any other standards the court deems relevant in determining whether to order the release of all or a portion of the recording. The court may conduct an in-camera review of the recording. The court shall release only those portions of the recording that are relevant to the person's request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

(g) Release of Recordings; General; Court Order Required. – Recordings in the custody of a law enforcement agency shall only be released pursuant to court order. Any custodial law enforcement agency or any person requesting release of a recording may file an action in the superior court in any county where any portion of the recording was made for an order releasing the recording. The request for release must state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording to which the action refers. The court may conduct an in-camera review of the recording. In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

- (1) Release is necessary to advance a compelling public interest.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- (4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
- (5) Release may harm the reputation or jeopardize the safety of a person.
- (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- (8) There is good cause shown to release all portions of a recording.

The court shall release only those portions of the recording that are relevant to the person's request, and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to



this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and may disclose or release a recording for any of the following purposes:

- (1) For law enforcement training purposes.
- (2) Within the custodial law enforcement agency for any administrative, training, or law enforcement purpose.
- (3) To another law enforcement agency for law enforcement purposes.

(i) Retention of Recordings. – Any recording subject to the provisions of this section shall be retained for at least the period of time required by the applicable records retention and disposition schedule developed by the Department of Natural and Cultural Resources, Division of Archives and Records.

(j) Agency Policy Required. – Each law enforcement agency that uses body-worn cameras or dashboard cameras shall adopt a policy applicable to the use of those cameras.

(k) No civil liability shall arise from compliance with the provisions of this section, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(l) Fee for Copies. – A law enforcement agency may charge a fee to offset the cost incurred by it to make a copy of a recording for release. The fee shall not exceed the actual cost of making the copy.

(m) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action brought pursuant to this section. (2016-88, s. 1.)

<b>For Internal Use Only:</b>	
<b>Report No.:</b>	

Physical Address:  
 500 South Greene Street  
 Greenville, North Carolina 27834



Telephone: (252) 329-4333  
 Facsimile: (252) 329-4792

Mark R. Holtzman, Chief of Police  
 mholtzman@greenvillenc.gov

Mailing Address:  
 Post Office Box 7207  
 Greenville, North Carolina 27835-7207

## GREENVILLE POLICE DEPARTMENT

### Request for Disclosure of Recording Pursuant to N.C.G.S. § 132-1.4A

PLEASE NOTE:

*Pursuant to N.C.G.S. § 132-1.4A(a)(4), "disclosure" means to make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the Greenville Police Department, the custodial law enforcement agency. The term "disclosure" does not include the release ("to provide a copy") of a recording.*

#### Person Requesting Disclosure of Recording—Requestor's Information

Name: \_\_\_\_\_ Home Phone: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Email: \_\_\_\_\_

What is the date, approximate time of the activity captured in the recording? Date: \_\_\_\_\_ Approximate Time: \_\_\_\_\_  a.m.  p.m.

Report, Citation, or Arrest Number (if known): \_\_\_\_\_

Describe any other information identifying the activity captured in the recording or otherwise describing the event:  
 \_\_\_\_\_  
 \_\_\_\_\_

Type of Recording (check all that apply):  Body-worn camera  Dashboard camera  Other Recording

PLEASE NOTE:

*Recordings are not public records as defined by N.C.G.S. § 132-1 and are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, N.C.G.S. § 160A-168, or N.C.G.S. § 153A-98. Recordings do not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses. N.C.G.S. §§ 132-1.4A(a)(6) and (b).*

As the Requestor, I am (please check all that apply):

- (1) A person whose image or voice is in the recording.
- (2) A personal representative ( a parent,  court-appointed guardian,  spouse, or  attorney) of an adult person whose image or voice is in the recording, and the adult person has consented to the disclosure.

*(A copy of the legal documentation establishing your authority to make this request and written consent must be included with this request.)*

**Provide below the name, address, and telephone number of the adult person whose image or voice is in the recording:**  
 \_\_\_\_\_  
 \_\_\_\_\_

- (3) A personal representative ( a parent,  court-appointed guardian,  spouse, or  attorney) of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

*(A copy of the legal documentation establishing your authority to make this request must be included with this request.)*

Provide below the name, address, and age of the minor or adult person under lawful guardianship whose image or voice is in the recording:

- (4) A personal representative (the personal representative of the estate of the deceased person; the deceased person's surviving spouse, the deceased person's parent, the deceased person's adult child; the deceased person's attorney; or the parent or the guardian of a surviving minor child) of a deceased person whose image or voice is in the recording.

(A copy of the legal documentation establishing your authority to make this request must be included with this request.)

Provide below the name, address, and date of death of the deceased person whose image or voice is in the recording:

- (5) A personal representative (a parent, court-appointed guardian, spouse, or attorney) of an adult person who is incapacitated and unable to provide consent to disclosure.

(A copy of the legal documentation establishing your authority to make this request must be included with this request.)

Provide below the name, address, and current location of the adult person whose image or voice is in the recording and who is alleged to be incapacitated and unable to provide consent (please also specify why you contend the adult person is incapacitated and unable to provide consent to disclosure):

PLEASE NOTE:

Upon receipt of the written request for disclosure, as promptly as possible, the Greenville Police Department must either disclose the portion of the recording relevant to the person's request or notify the requestor of the Greenville Police Department's decision not to disclose the recording to the requestor. N.C.G.S. § 132-1.4A(d). When disclosing the recording, the Greenville Police Department shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to N.C.G.S. § 132-1.4A(c) shall not record or copy the recording. If the Greenville Police Department denies disclosure pursuant to subsection N.C.G.S. § 132-1.4A(d), or has failed to provide disclosure more than three (3) business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure.

I have read and understand this document.

Signature: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Printed Name: \_\_\_\_\_

FOR INTERNAL USE ONLY

Received By: \_\_\_\_\_ Date of Receipt: \_\_\_\_\_

Time of Receipt: \_\_\_\_\_ a.m. p.m.

NOTES: \_\_\_\_\_

County

IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:

PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING

Name Of Petitioner

Address

City, State, Zip

Phone No.

Fax No.

Email Address

G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)

G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to \_\_\_\_\_,  
state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

- Personal Delivery
- By Regular Mail, US postage prepaid, addressed as follows:

CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

- Personal Delivery
- By Regular Mail, US postage prepaid, addressed as follows:

Date

Petitioner's Signature

**From:** [Rhonda Wilkerson](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from Rhonda Wilkerson (4426)  
**Date:** Tuesday, October 15, 2019 12:10:53 PM  
**Attachments:** [Audio Recording S1-201901\\_001\\_compand.wav](#)

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## Donald Phillips

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**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Tuesday, October 15, 2019 12:38 PM  
**To:** Donald Phillips  
**Subject:** Surveillance Video - CONFIDENTIAL REQUEST

Good Afternoon, Donald.

My name is Peter Romary, I am an attorney living most of the time in Hillsborough and also Greenville (I will be there tomorrow). I was formerly a PBA // FoP Panel Attorney and was friends with Bill Little -- I practiced law with Galen Braddy for a number of years.

I have been retained by some private parties, including a couple of members of the ECU Board of Trustees and UNC Board of Governors - this is in response to an ever changing story from Dan Gerlach and an allegation of a "set up" by him and some who support him.

The "set up" (which has been outlined online by some) states that a "Cabal" of Judges, Lawyers, BoT, BoG and former political opponents paid 2 off duty police officers to lure Gerlach from Sup Dogs to Club 519. There, so the theory goes, the officers had a "prostitute" they had picked up previously for sale of drugs, waiting to "put Gerlach in compromising positions" so that he could be photographed.

A strange story indeed and one of several changing stories told -- also very unlikely as Gerlach said the trip to Sup Dogs was a last minute / spur of the moment decision. Withholding charges in return for pay and to set someone up also sounds felonious to me. As such, my clients -- no BoT members have been named just "BoT members" along with Judges seem to be accused in this, what appears to me to be a, "fantasy".

That said, I would like to look at and view the video surveillance on the basis that my clients may be alleged at some time to be on them. I have also spoken to a Judge, friend of 25 years, and they are quite annoyed about this. So, I am writing, requesting access to or copies of GPD surveillance camera footage.

I have down the times that some witnesses have said things occurred -- Gerlach arrived at Sup Dogs between 2100-2130 on the night of Sept 25th. He left at approximately 2230-2250.

So, cameras pointed at or picking up Sup Dogs for the earlier time (as well as parking lot footage from 2100-2130). Then cameras between Sup Dogs and Club 519, including any cameras picking up along the way and showing door of 519 between 2230-2300.

Finally, cameras showing the parking lot behind and in front of Sup Dogs from 2345-0300 (25th-26th) -- I understand his latest story has him going to 2 other clubs after Club 519.

My clients asked for this after some BoT members were asked to produce their cellphones by a private law firm asked to look into this matter (so, somehow this story is being investigated).

We have unnamed Judges, lawyers, BoT, BoG and un-named political rivals from years gone by accused in this story -- Gerlach simply states he "may have been set up" which suggests that off duty officers lured him to a nightclub (not sure why the words "No thanks" were not used).

My request is not for body camera footage and is not so that anything can be displayed online. If these

allegations catch hold there is a likelihood that my clients (who for now wish to preserve anonymity because of national press interest) may have to show they were NOT there. Further, there is a public interest in showing that NO police officers were involved in any way, NO judges were involved in any way and that NO conspiracy existed -- I would have hoped that Mr. Gerlach's ever changing story and the fact that the first pictures posted online were videos taken by students, would have ended this.

I know Mike Montanye, whose department these video files are kept in. I will be in Greenville tomorrow and, with your permission pursuant to the General Statutes permitting release of videos (albeit body camera) I would very much like to get the videos and clear this up. In essence allegations have been made suggesting people are on these videos -- no allegation has yet been made that BoT or BoG members were present BUT it would not take much for someone to suggest they were, alleging that they wanted to see "a plan in action" -- we contend that this is nonsense BUT, rather than relying on videos that may be purged, I would rather have said video and review it to refute any such allegation that comes along.

Further, I would like, pro bono, as I did many times before, to assist and protect officers from baseless allegations made by people whom, I contend, are lying to cover up drunken foolishness that may or may not have involved a sex act and / or assault on a female.

Thank you for your time and assistance -- as I say, I will be down in Greenville tomorrow and, with your permission, could arrange to get these from Mike.

Very best wishes,

Peter

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

**From:** [Mike Montanye](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from Mike Montanye (3215)  
**Date:** Tuesday, October 15, 2019 2:03:43 PM  
**Attachments:** [Audio Recording S1-202255\\_001\\_compand.wav](#)

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## Donald Phillips

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**From:** Donald Phillips  
**Sent:** Tuesday, October 15, 2019 4:50 PM  
**To:** Peter Romary  
**Cc:** Donald Phillips  
**Subject:** Interim ECU Chancellor Dan Gerlach Investigation--PRLR for Custodial LEA Recording(s)  
**Attachments:** N.C.G.S. 132-1.4A.PDF; NCGS 132-1 4A - Request for Disclosure of Recording.pdf; AOC-CV-270 (04.2017).pdf

### PUBLIC RECORDS REQUEST FOR CUSTODIAL LAW ENFORCEMENT AGENCY RECORDING

**Name of Requestor:** Peter Romary, Esq.  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

**Date of Request:** 10/15/2019  
**Date of Incident:** 09/25/2019  
**GPD Officer(s):** None  
**GPD File No.:** None

Mr. Romary:

I understand that you are interested in viewing City of Greenville, Greenville Police Department ("GPD") traffic/public safety camera recordings from September 25, 2019 regarding an investigation of Interim ECU Chancellor Dan Gerlach.

**Overview of the law regarding law enforcement recordings:** Regarding your request to view the recording(s) at issue, please find attached N.C.G.S. § 132-1.4A, which became effective October 1, 2016. In a nutshell, this law creates very specific procedures for a person who is requesting to either **view** (seek "**disclosure**") or obtain a **copy** (seek "**release**") of any custodial law enforcement agency recording (traffic/public safety camera, body worn camera, dashboard camera, or any other audio or video recording). Requests for "disclosure" of GPD recordings are handled by GPD and the Chief of Police allows or denies "disclosure." A recording can only be "released" by superior court order and only after the person seeking "release" has first "filed" a Petition for Release in superior court.

**If you want to VIEW the GPD recording(s):** I have attached the *GPD Request for Disclosure of Recording Form*. You will need to complete this form to determine your eligibility to view the portions of the requested recordings. Please then contact Lt. Michael Montanye regarding specific questions and scheduling of those recordings that are applicable to your request for disclosure. Here is Lt. Montanye's contact information:

Lieutenant Michael Montanye  
Strategic Services  
Greenville Police Department  
Email: [mmontanye@greenvillenc.gov](mailto:mmontanye@greenvillenc.gov)  
Telephone: (252) 329-4835

**If you want to RECEIVE A COPY of the GPD recording(s):** For your convenience, I have attached the *Petition for Release of Custodial Law Enforcement Agency Recording Form* (AOC-CV-270). Please

complete this form and file this form with the Pitt County Clerk of Superior Court. You will also need to calendar the matter for hearing with the Clerk of Superior Court and the Superior Court Trial Court Coordinator. You will need to properly give notice to all parties as required by the statute. As the attorney that will be handling the matter for the City, I would respectfully request to be copied as well on all documents you file. **If you decide to file a Petition, please give me a call before you file the Petition so that we can discuss the filing and logistics in greater detail.**

**Please note that I am out of town at a CLE, but will be back in the office on Thursday.** Feel free to call me if you have any questions or would like to discuss. My direct line is (252) 329-4331. If you need to reach me before Thursday, please call my cell (252) 916-9803.

Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Tuesday, October 15, 2019 12:38 PM  
**To:** Donald Phillips <DKPhillips@greenvillenc.gov>  
**Subject:** Surveillance Video - CONFIDENTIAL REQUEST

Good Afternoon, Donald.

My name is Peter Romary, I am an attorney living most of the time in Hillsborough and also Greenville (I will be there tomorrow). I was formerly a PBA // FoP Panel Attorney and was friends with Bill Little -- I practiced law with Galen Braddy for a number of years.

I have been retained by some private parties, including a couple of members of the ECU Board of Trustees and UNC Board of Governors - this is in response to an ever changing story from Dan Gerlach and an allegation of a "set up" by him and some who support him.

The "set up" (which has been outlined online by some) states that a "Cabal" of Judges, Lawyers, BoT, BoG and former political opponents paid 2 off duty police officers to lure Gerlach from Sup Dogs to Club 519. There, so the theory goes, the officers had a "prostitute" they had picked up previously for sale of drugs, waiting to "put Gerlach in compromising positions" so that he could be photographed.

A strange story indeed and one of several changing stories told -- also very unlikely as Gerlach said the trip to

Sup Dogs was a last minute / spur of the moment decision. Withholding charges in return for pay and to set someone up also sounds felonious to me. As such, my clients -- no BoT members have been named just "BoT members" along with Judges seem to be accused in this, what appears to me to be a, "fantasy".

That said, I would like to look at and view the video surveillance on the basis that my clients may be alleged at some time to be on them. I have also spoken to a Judge, friend of 25 years, and they are quite annoyed about this. So, I am writing, requesting access to or copies of GPD surveillance camera footage.

I have down the times that some witnesses have said things occurred -- Gerlach arrived at Sup Dogs between 2100-2130 on the night of Sept 25th. He left at approximately 2230-2250.

So, cameras pointed at or picking up Sup Dogs for the earlier time (as well as parking lot footage from 2100-2130). Then cameras between Sup Dogs and Club 519, including any cameras picking up along the way and showing door of 519 between 2230-2300.

Finally, cameras showing the parking lot behind and in front of Sup Dogs from 2345-0300 (25th-26th) -- I understand his latest story has him going to 2 other clubs after Club 519.

My clients asked for this after some BoT members were asked to produce their cellphones by a private law firm asked to look into this matter (so, somehow this story is being investigated).

We have unnamed Judges, lawyers, BoT, BoG and un-named political rivals from years gone by accused in this story -- Gerlach simply states he "may have been set up" which suggests that off duty officers lured him to a nightclub (not sure why the words "No thanks" were not used).

My request is not for body camera footage and is not so that anything can be displayed online. If these allegations catch hold there is a likelihood that my clients (who for now wish to preserve anonymity because of national press interest) may have to show they were NOT there. Further, there is a public interest in showing that NO police officers were involved in any way, NO judges were involved in any way and that NO conspiracy existed -- I would have hoped that Mr. Gerlach's ever changing story and the fact that the first pictures posted online were videos taken by students, would have ended this.

I know Mike Montanye, whose department these video files are kept in. I will be in Greenville tomorrow and, with your permission pursuant to the General Statutes permitting release of videos (albeit body camera) I would very much like to get the videos and clear this up. In essence allegations have been made suggesting people are on these videos -- no allegation has yet been made that BoT or BoG members were present BUT it would not take much for someone to suggest they were, alleging that they wanted to see "a plan in action" -- we contend that this is nonsense BUT, rather than relying on videos that may be purged, I would rather have said video and review it to refute any such allegation that comes along.

Further, I would like, pro bono, as I did many times before, to assist and protect officers from baseless allegations made by people whom, I contend, are lying to cover up drunken foolishness that may or may not have involved a sex act and / or assault on a female.

Thank you for your time and assistance -- as I say, I will be down in Greenville tomorrow and, with your permission, could arrange to get these from Mike.

Very best wishes,

Peter

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

**§ 132-1.4A. Law enforcement agency recordings.**

(a) Definitions. – The following definitions apply in this section:

- (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
- (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
- (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
- (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
- (5) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.
- (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
- (7) Release. – To provide a copy of a recording.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

(d) Disclosure; Factors for Consideration. – Upon receipt of the written request for disclosure, as promptly as possible, the custodial law enforcement agency must either disclose the portion of the recording relevant to the person's request or notify the requestor of the custodial law enforcement agency's decision not to disclose the recording to the requestor.

The custodial law enforcement agency may consider any of the following factors in determining if a recording is disclosed:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Release of Recordings to Certain Persons; Expedited Process. – Notwithstanding the provisions of subsection (g) of this section, a person authorized to receive disclosure pursuant to subsection (c) of this section, or the custodial law enforcement agency, may petition the superior court in any county where any portion of the recording was made for an order releasing the recording to a person authorized to receive disclosure. There shall be no fee for filing the petition which shall be filed on a form approved by the Administrative Office of the Courts and shall state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording. If the petitioner is a person authorized to receive disclosure, notice and an opportunity to be

heard shall be given to the head of the custodial law enforcement agency. Petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court.

The court shall first determine if the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section. In making this determination, the court may conduct an in-camera review of the recording and may, in its discretion, allow the petitioner to be present to assist in identifying the image or voice in the recording that authorizes disclosure to the person to whom release is requested. If the court determines that the person is not authorized to receive disclosure pursuant to subsection (c) of this section, there shall be no right of appeal and the petitioner may file an action for release pursuant to subsection (g) of this section.

If the court determines that the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section, the court shall consider the standards set out in subsection (g) of this section and any other standards the court deems relevant in determining whether to order the release of all or a portion of the recording. The court may conduct an in-camera review of the recording. The court shall release only those portions of the recording that are relevant to the person's request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

(g) Release of Recordings; General; Court Order Required. – Recordings in the custody of a law enforcement agency shall only be released pursuant to court order. Any custodial law enforcement agency or any person requesting release of a recording may file an action in the superior court in any county where any portion of the recording was made for an order releasing the recording. The request for release must state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording to which the action refers. The court may conduct an in-camera review of the recording. In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

- (1) Release is necessary to advance a compelling public interest.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- (4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
- (5) Release may harm the reputation or jeopardize the safety of a person.
- (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- (8) There is good cause shown to release all portions of a recording.

The court shall release only those portions of the recording that are relevant to the person's request, and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to

this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and may disclose or release a recording for any of the following purposes:

- (1) For law enforcement training purposes.
- (2) Within the custodial law enforcement agency for any administrative, training, or law enforcement purpose.
- (3) To another law enforcement agency for law enforcement purposes.

(i) Retention of Recordings. – Any recording subject to the provisions of this section shall be retained for at least the period of time required by the applicable records retention and disposition schedule developed by the Department of Natural and Cultural Resources, Division of Archives and Records.

(j) Agency Policy Required. – Each law enforcement agency that uses body-worn cameras or dashboard cameras shall adopt a policy applicable to the use of those cameras.

(k) No civil liability shall arise from compliance with the provisions of this section, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(l) Fee for Copies. – A law enforcement agency may charge a fee to offset the cost incurred by it to make a copy of a recording for release. The fee shall not exceed the actual cost of making the copy.

(m) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action brought pursuant to this section. (2016-88, s. 1.)



<b>For Internal Use Only:</b>	
<b>Report No.:</b>	

Physical Address:  
500 South Greene Street  
Greenville, North Carolina 27834



Telephone: (252) 329-4333  
Facsimile: (252) 329-4792

Mark R. Holtzman, Chief of Police  
mholtzman@greenvillenc.gov

Mailing Address:  
Post Office Box 7207  
Greenville, North Carolina 27835-7207

## GREENVILLE POLICE DEPARTMENT

### Request for Disclosure of Recording Pursuant to N.C.G.S. § 132-1.4A

*PLEASE NOTE:*

*Pursuant to N.C.G.S. § 132-1.4A(a)(4), "disclosure" means to make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the Greenville Police Department, the custodial law enforcement agency. The term "disclosure" does not include the release ("to provide a copy") of a recording.*

#### Person Requesting Disclosure of Recording—Requestor's Information

Name: \_\_\_\_\_ Home Phone: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Email: \_\_\_\_\_

What is the date, approximate time of the activity captured in the recording? Date: \_\_\_\_\_ Approximate Time: \_\_\_\_\_  a.m.  p.m.

Report, Citation, or Arrest Number (if known): \_\_\_\_\_

Describe any other information identifying the activity captured in the recording or otherwise describing the event:  
 \_\_\_\_\_  
 \_\_\_\_\_

Type of Recording (check all that apply):  Body-worn camera  Dashboard camera  Other Recording

*PLEASE NOTE:*

*Recordings are not public records as defined by N.C.G.S. § 132-1 and are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, N.C.G.S. § 160A-168, or N.C.G.S. § 153A-98. Recordings do not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses. N.C.G.S. §§ 132-1.4A(a)(6) and (b).*

As the Requestor, I am (please check all that apply):

- (1) A person whose image or voice is in the recording.
- (2) A personal representative ( a parent,  court-appointed guardian,  spouse, or  attorney) of an adult person whose image or voice is in the recording, and the adult person has consented to the disclosure.

*(A copy of the legal documentation establishing your authority to make this request and written consent must be included with this request.)*

**Provide below the name, address, and telephone number of the adult person whose image or voice is in the recording:**  
 \_\_\_\_\_  
 \_\_\_\_\_

- (3) A personal representative ( a parent,  court-appointed guardian,  spouse, or  attorney) of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

*(A copy of the legal documentation establishing your authority to make this request must be included with this request.)*

Provide below the name, address, and age of the minor or adult person under lawful guardianship whose image or voice is in the recording:

- (4) A personal representative (the personal representative of the estate of the deceased person; the deceased person's surviving spouse, the deceased person's parent, the deceased person's adult child; the deceased person's attorney; or the parent or the guardian of a surviving minor child) of a deceased person whose image or voice is in the recording.

(A copy of the legal documentation establishing your authority to make this request must be included with this request.)

Provide below the name, address, and date of death of the deceased person whose image or voice is in the recording:

- (5) A personal representative (a parent, court-appointed guardian, spouse, or attorney) of an adult person who is incapacitated and unable to provide consent to disclosure.

(A copy of the legal documentation establishing your authority to make this request must be included with this request.)

Provide below the name, address, and current location of the adult person whose image or voice is in the recording and who is alleged to be incapacitated and unable to provide consent (please also specify why you contend the adult person is incapacitated and unable to provide consent to disclosure):

PLEASE NOTE:

Upon receipt of the written request for disclosure, as promptly as possible, the Greenville Police Department must either disclose the portion of the recording relevant to the person's request or notify the requestor of the Greenville Police Department's decision not to disclose the recording to the requestor. N.C.G.S. § 132-1.4A(d). When disclosing the recording, the Greenville Police Department shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to N.C.G.S. § 132-1.4A(c) shall not record or copy the recording. If the Greenville Police Department denies disclosure pursuant to subsection N.C.G.S. § 132-1.4A(d), or has failed to provide disclosure more than three (3) business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure.

I have read and understand this document.

Signature: Date of Request:

Printed Name:

FOR INTERNAL USE ONLY

Received By: Date of Receipt:

Time of Receipt: a.m. p.m.

NOTES:

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice  
Superior Court Division

County

IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:

PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING

Name Of Petitioner

Address

City, State, Zip

Phone No.

Fax No.

Email Address

G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)

G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to \_\_\_\_\_,  
state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)*

CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

- Personal Delivery
- By Regular Mail, US postage prepaid, addressed as follows:

CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY

I certify that a filed copy of this Petition was served on the District Attorney as follows *(only required for general release)*:

- Personal Delivery
- By Regular Mail, US postage prepaid, addressed as follows:

Date

Petitioner's Signature

**From:** [Donald Phillips](#)  
**To:** [Mark Holtzman](#); [Mike Montanye](#); [Patina Oxendine](#); [Shari S. Groccia](#)  
**Cc:** [Donald Phillips](#)  
**Subject:** Interim ECU Chancellor Dan Gerlach Investigation--PRLR for Custodial LEA Recording(s)  
**Date:** Tuesday, October 15, 2019 4:51:43 PM  
**Attachments:** [Audio Recording S1-201901\\_001\\_compand.wav](#)

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Voicemail from Attorney Peter Romary.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



**From:** Rhonda Wilkerson <Rhonda.Wilkerson@AAM.COGNC.NET>

**Sent:** Tuesday, October 15, 2019 12:11 PM

**To:** Donald Phillips <Donald.Phillips@AAM.COGNC.NET>

**Subject:** Voice Message from Rhonda Wilkerson (4426)

## Donald Phillips

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**From:** Mike Montanye  
**Sent:** Wednesday, October 16, 2019 9:26 AM  
**To:** Donald Phillips  
**Subject:** Video

The times in the text message I received about the downtown incident are spot on. I also have some historical information about who has access to our camera system. Lastly, a request has been submitted to lock down the segments of video that Tina and I have saved. Call when you can and/or let me know if I need to update the Chief on this discovery.

Thank you

Lieutenant Michael Montanye  
Strategic Services  
Greenville Police Department  
252-329-3215 Office  
252-916-3900 Cell

**From:** [Avaya Aura Messaging](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from 2524138155 / "N CAROLINA CALL"  
**Date:** Thursday, October 17, 2019 10:26:35 AM  
**Attachments:** [Audio Recording S1-204751\\_001\\_comand.wav](#)

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**From:** Tom Fetzer <[tom@fetzerstrategicpartners.com](mailto:tom@fetzerstrategicpartners.com)>  
**Sent:** Monday, October 21, 2019 9:04 AM  
**To:** Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>  
**Subject:** Re: Follow-up on Mandatory Preservation Notice- CONFIDENTIAL

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Good morning Beth—

I received yours of Friday last while on vacation with my wife celebrating her birthday and our 10th wedding anniversary.

I have a busy week after being in vacation last week and I have 2 major pieces of legislation moving in the Legislature beginning today—a criminal justice reform bill and Medicaid expansion. That said, I will do my best to get all I have delivered to you by week's end.

Sent from my iPhone

On Oct 18, 2019, at 9:41 AM, Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)> wrote:

On October 4, 2019, you received a Mandatory Preservation Notice from my firm in regards to documents or data that relate to the investigation we are conducting on behalf of the System. At this time, we write to obtain any “documents or data” as described in that Notice that you may have related to UNC System business or matters involving the UNC System or East Carolina University from January 1, 2019 to date. Please provide all such documents or data to us as soon as possible. This request includes any such “documents or data” in your possession or control including, but not limited to, any documents related to Interim Chancellor Dan Gerlach and the alleged events of September 25, 2019 subsequently reported in the media as well as on social media.

Alternatively, if you would prefer that we gather this information for you, please let us know and we can arrange to image your device/s through the use of a forensic technician. If you choose this method, we would not be seeking purely personal information unrelated to this request but rather the information described above.

The System has asked that this investigation proceed expeditiously. To that end, we would like to receive this information from you as soon as possible. In light of your role as a member of the Board of Governors of the System, we have provided options for your cooperation above. Please let me know today your preferred method of making this information available to the System in this investigation.

Thank you in advance for your prompt reply.

**Beth Tyner Jones**  
Partner  
Womble Bond Dickinson (US) LLP

**d:** 919-755-8177  
**m:** 919-632-2774  
**e:** [Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)

555 Fayetteville Street  
Suite 1100  
Raleigh, NC 27601

**womblebonddickinson.com**

This email is sent for and on behalf of Womble Bond Dickinson (US) LLP. Womble Bond Dickinson (US) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practice law. Please see [www.womblebonddickinson.com/us/legal-notice](http://www.womblebonddickinson.com/us/legal-notice) for further details.



## Donald Phillips

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**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Sunday, October 20, 2019 10:02 PM  
**To:** Donald Phillips  
**Subject:** Petition and Consent Order

Good evening, Donald:

Judge Foster is on the ECU BoV and as such cannot sign a consent order -- however, Judge JC Cole is in town this week and I am informed that if request is narrow (so no PD need information and chance to object) and as long as we can arrange an agreement between us then the signing of a consent order in Chambers and the pick up of the videos (plus preservation of others could be effectuated this week.

The reason for the alacrity is that there is a rumor that a decision will be made this week and, if Gerlach is reinstated, it will be because his story about a "set up" (which as we discussed begins with "corrupt cops") is being accepted.

As you know, Halloween is almost upon us and the State and National PBA and FoP want to be sure that headlines or belief in this "conspiracy theory" does not impact police nor behavior towards police.

The tapes my clients are interested in getting copies of are:

- a) the ones showing Gerlach leaving Sup Dogs with 3-4 people in his group -- important that we have that one - NO police should be in that per witnesses as none were around
- b) less so, and if any cops in then we will be fine just watching that one.
- c) video of him leaving 519 in an Uber or Lyft with a female and male of college age -- again, if any cops in that then would be happy to just view.
- d) video of him coming up to his car on 5th street, video showing him entering his car and then driving off -- again, per witnesses NO police should be in that as no police were around in the area.

The order would be brief in nature and I'll chat with you about it and petition, but would state that videos are for delivery and use of PBA and FoP and that my clients will also provide copies to the BoG for their oversight of the investigation (the governing board who are separate and distinct from General Administration -- GA were the ones who, I understand authorized and are directing the investigation -- the videos will not be released to the media by my clients except if police officers are explicitly or implicitly accused or it is inferred that officers were involved in a "set up" or "conspiracy" involving Dan Gerlach and then they may be used to defend the police or police officers in the same forum or forums in which such allegations shall have been made.

As a former police officer I hope you agree this is fair as officers cannot speak out for themselves. NO officers were involved in any of this and this is what has caused the extreme upset.

I am taking my wife for minor surgery in the AM but plan to contact Faris and let him know what is going on, then I would come down (having worked on wording of petition and consent order with you) file order, meet you, go and see Judge Cole to get it signed and then pick up the videos and drop them off with my clients --- doing do before any melee could occur with Halloween or any editorial could be written alleging that off duty

police and a "dark cabal" set this up -- we are (my clients and I) very concerned about the "pick on GPD" narrative that could end in violence against cops here or elsewhere.

Many thanks, my friend -- apologies for the rushing of this BUT with Judges, police, BoT and BoG members plus "former political adversaries" being blanket accused by this man and his friends, we need to move (on our side) as fast as we can.

Very best wishes,

Peter

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

## Donald Phillips

---

**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Monday, October 21, 2019 6:40 AM  
**To:** Donald Phillips  
**Subject:** Re: Petition and Consent Order

Thanks, Donald.

Based on what I have from witnesses I know that no police were seen as he left Sup Dogs and I know there were none on his side of the street when he was getting into his car (not sure about when he went into Club 519, nor about Still Life, nor about 5th Street Annex.

It might be easiest (and impose less on your time) if you could just have a look at him leaving Sup Dogs and then him getting in his car -- if witnesses are right then those should be good and maybe we can consent to those and then just put in the order that the remaining videos will be saved / preserved from that night for say 12 months and that, if we view them and there are officers in then we will return to court having given officers right to be heard or, if no officers are in there (and I'll give times) then they can be released.

I know that some folks around Greenville have said the President plans to make a decision this week and the fear is that any endorsement of Gerlach is a tacit endorsement of the conspiracy theory --

I'm also happy to pull together times (windows as don't have knowledge of tapes), places etc that could go into order.

Apologies again on this, but it is national and international news (the Pandora's Box that Mr. Gerlach opened against police and judges) -- but happy to just go with 2 short times and return on others only if needed.

Between us, I was stunned that the "independent investigators" called and never followed up -- but, they have made that choice and probably better as their report can become public record I believe.

Best wishes,

Peter

On Mon, Oct 21, 2019 at 5:57 AM Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)> wrote:

Peter:

Although the thought of having this matter completed this week sounds great, I do not believe that can practically occur. For example, as discussed with you by telephone, once you file the N.C.G.S. § 132-1.4A(g) proceeding, "any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency," "shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding." So, any and all ECU police officers, ALE, ABC, and GPD officers who may in any portion of the footage requested (to the extent that they are, and herein not saying that they are—I have not seen the recordings), will have to be notified (along with

the heads of their agencies) to determine whether they want to be heard at a hearing. This will take longer than a week.

Assuming this notification prong can be fully addressed without the need for a hearing, then it is conceivable for me to then prepare a proposed Consent Order and submit same to the Court out of session. This will take time for me to prepare and I certainly cannot guarantee that it can be done this week.

I will be in Superior Court most of the day today and will have limited availability.

Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)>

**Sent:** Sunday, October 20, 2019 10:02 PM

**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Subject:** Petition and Consent Order

Good evening, Donald:

Judge Foster is on the ECU BoV and as such cannot sign a consent order -- however, Judge JC Cole is in town this week and I am informed that if request is narrow (so no PD need information and chance to object) and as long as we can arrange an agreement between us then the signing of a consent order in Chambers and the pick up of the videos (plus preservation of others could be effectuated this week.

The reason for the alacrity is that there is a rumor that a decision will be made this week and, if Gerlach is reinstated, it will be because his story about a "set up" (which as we discussed begins with "corrupt cops") is being accepted.

As you know, Halloween is almost upon us and the State and National PBA and FoP want to be sure that headlines or belief in this "conspiracy theory" does not impact police nor behavior towards police.

The tapes my clients are interested in getting copies of are:

a) the ones showing Gerlach leaving Sup Dogs with 3-4 people in his group -- important that we have that one -- NO police should be in that per witnesses as none were around

b) less so, and if any cops in then we will be fine just watching that one.

c) video of him leaving 519 in an Uber or Lyft with a female and male of college age -- again, if any cops in that then would be happy to just view.

d) video of him coming up to his car on 5th street, video showing him entering his car and then driving off -- again, per witnesses NO police should be in that as no police were around in the area.

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As a former police officer I hope you agree this is fair as officers cannot speak out for themselves. NO officers were involved in any of this and this is what has caused the extreme upset.

I am taking my wife for minor surgery in the AM but plan to contact Faris and let him know what is going on, then I would come down (having worked on wording of petition and consent order with you) file order, meet you, go and see Judge Cole to get it signed and then pick up the videos and drop them off with my clients --- doing do before any melee could occur with Halloween or any editorial could be written alleging that off duty police and a "dark cabal" set this up -- we are (my clients and I) very concerned about the "pick on GPD" narrative that could end in violence against cops here or elsewhere.

Many thanks, my friend -- apologies for the rushing of this BUT with Judges, police, BoT and BoG members plus "former political adversaries" being blanket accused by this man and his friends, we need to move (on our side) as fast as we can.

Very best wishes,

Peter

--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

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--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

## Donald Phillips

---

**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Monday, October 21, 2019 8:28 PM  
**To:** Donald Phillips  
**Subject:** Video Surveillance Footage

Good Evening, Don:

I was contacted today by someone who works very closely with the House Majority Leader, John Bell, who has taken a keen interest in the matter of the Gerlach videos.

I forwarded the messages from you and Mike stating that the videos were preserved and also conveyed that, while they can subpoena footage, that you and I are working on a consent order and that Judge Cole is in Greenville, Faris Dixon has been notified of the request and has no objection conveyed to me and also that I have it from witnesses that the video we most want has no officers within it.

I am also willing, if you could send a draft of prior consent orders, to complete the order -- police have registered concerns that Homecoming is this weekend and Halloween is just around the corner and that there are concerns that the law firm investigating have no requested -- we are not asking anyone contact them, rather we will convey to the Board of Governors.

I stated to my clients that if we just ask for the footage from 0210-0230 on Thursday AM, on the 200 block of E. 5th Street showing Mr. Gerlach prior to his entering his vehicle and then entering his vehicle (a Gold colored Nissan // maybe Toyota but believed Nissa) and then driving away then we could stipulate that the remainder of the videos from that night could be preserved for 12 months and, during that time, I could inspect them with you -- that any other tapes for which you have no objection could be released to be and any others (if we felt they were needed) but that you objected to the release of, we could file a motion under the same file number for.

That would mean you would have just one video to inspect and I could drive the consent order -- I could pop down on Weds / Thurs, file, serve on you and Faris have a Judge sign it and then pick up the videos from you.

I do apologize for this -- I began being contacted by some BoT // BoG members who believed that the investigation had gone down an improper route. The same was happening with the PBA // FoP and now I am contacted on behalf of the NC House Majority leader (albeit he is not my client yet).

I am more than happy to do the heavy lifting of drafting and will remain forever in your debt -- I do understand the concerns of all involved and know, as a former LEO, that you do too.

As a final note -- some of these "conspiracy theorists" are suggesting that Judges, Lawyers, Police, BoT and BoG members in addition to political enemies from the Easley era are involved.

One person posted on Facebook that it was a "dark cabal" and another that it was "the deep state" (a few weeks ago the UK press did state that my colleagues and I, government contractors all, were CIA operatives out to research a company for short sale, so Deep State may trump that.

Thank you so much -- I hope that the car video (along with knowing when Gerlach left Sup Dogs -- witness places between 2230-2250 -- again, windows based on when folks get off their shifts and see people) -- those are the only 2 keys we need.

I would also ask (on behalf of House member interested parties and BoG interested parties) that unless in response to a records request, the lawyers for UNC not know I am asking for this.

Could you confirm to me that I did hear you correctly that an attorney from Womble (Henriquez I believe) did inquire about the tapes.

Hopefully, the request for just the one tape makes this easier and I can take care of drafting and sending to you - - then, with me coming down to make sure all are served, that order is signed and I get tape will conclude for quite a while.

MANY thanks,

Peter

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal





+1 (252) 413-8155 >

iMessage  
Mon, Oct 21, 1:02 PM

Hi, Donald.

Peter Romary here — completely off topic — but found out you are a brother.

I am PM of Crown Point 2003.

On other side, I was informed that House Majority Leader John Bell will be retaining me in support of PBA // FoP and as part of legislature oversight.

It seems that clients are only interested right now in the footage of Dan Gerlach behaving erratically, swaying and not walking straight, getting into his car and driving home (this was around [0210-0230](#) on 5th Street— I'll verify times but that is window.

Then just have order keeping them preserved and getting others as



iMessage





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Then just have order keeping them preserved and getting others as needed IF no PD in them

Many thanks. I know legislature can send subpoena BUT they have concern that law firm UNC hires are engaged in potential cover up (on square).

Of course legislature folks want them yesterday — I will have confirmation from them on representation today.

Mon, Oct 21, 2:59 PM

Apologies, Brother — I know you are slammed — if you get a chance could you call this evening.

Wed, Oct 23, 1:44 PM

I am in a meeting. Can I call you later?

Absolutely—



iMessage



## Donald Phillips

---

**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Tuesday, October 22, 2019 8:25 PM  
**To:** Donald Phillips  
**Subject:** Re: Petition and Consent Order

Hi, Donald:

I'm not sure if Rep. Bell (Majority Leader) was able to get up with you today -- he is wanting to see the video when I get it. I understand that Dr. Roper is making a decision this week and it is highly likely that he will be adopting the story of Mr. Gerlach that corrupt GPD officers set him up on orders from a "cabal" of Judges, Lawyers, BoT, BoG Members along with political adversaries from Mr. Gerlach's days with Governor Easley -- this was what national and state PBA and FoP were trying to avoid because the original story made national and international press.

I have conveyed through to the Speaker; President Pro Tem and Majority leader that there is only one video currently being sought (others could be obtained at other times), witnesses state that no LEOs were present and that I have offered to draft up the order or the piece describing what would be needed.

I do not know how long Judge Cole will be there this week and / or if Marvin is back. The verbiage would be:

### **FINDINGS OF FACT:**

All parties are properly before the Court and all persons or institutions required by law to be served with notice have been served and no objections have been raised. Further the Court has subject matter jurisdiction over this matter,

The petitioner, Peter Romary, Attorney-at-Law, and Greenville Police Department by and through their attorney, Donald Phillips hereby stipulate and agree to the release of copies of footage from video surveillance to the petitioner of the area in front of 212 E. 5th Street, Greenville NC between the times of 0210 and 0230 in the early morning hours of Thursday 26th of September, 2019, showing a man believed to be Mr. Dan Gerlach coming into the picture displayed on the video, preparing to enter a vehicle, entering a vehicle and driving away along 5th Street in Greenville, NC.

The petitioner represents and agrees that he is obtaining said video on behalf of his clients the NC Police Benevolent Association and the NC Fraternal Order of Police and / or their chapters to be held and used by them in defense of their members and other law enforcement officers against any explicit or implicit allegations of misfeasance or malfeasance by said officers at any time and that said association / order may publish the same in any equivalent forum or forums in which any allegations whether implicit or explicit against any law enforcement officers are, have been or at any time may be made.

Further, the NC Police Benevolent Association and NC Fraternal Order of Police and / or their chapters may deliver the same to representatives or senators in the North Carolina General Assembly and to the University of North Carolina General Administration and / or Board of Governors with the request that they use the same solely for such purposes as they see fit within their constitutional and statutorily mandated oversight duties for the proper and effective functioning of the UNC system and its constituent institutions as well as their supervisory role over employees of the UNC system or constituent institutions.

It is further agreed that the Greenville Police Department shall maintain and preserve, for a period of one year from the date of the entry of this order, any and all tapes created between the hours of 2100 on Wednesday 25th September, 2019 and 0230 on Thursday 26th September that show Mr. Dan Gerlach in the monitored area of Greenville, NC. This includes but is not limited to views of the area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25th September, any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25th September-Thursday 26th September. Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26th.

If the parties and any other person required by law to be informed agree, at some point within the next twelve months, that such videos may be released to Peter Romary, under the same terms and conditions as are set out herein, then the parties stipulate that they may be released for distribution as outlined above. If no agreement can be reached then the matter shall come on to be heard upon a properly calendared and noticed date before the Superior Court.

#### **CONCLUSIONS OF LAW:**

The parties are properly before the Court and all parties have been properly served.

That the Court has jurisdiction over the subject matter and parties hereto.

That the parties to this proceeding do stipulate and agree to the facts as set forth above which are hereby incorporated by reference as conclusions of law.

**NOW THEREFORE IT IS ORDERED ADJUDGED AND DECREED** that Petitioner shall be provided with a copy of the Police Surveillance Video showing the person and area outlined in the FINDINGS OF FACT above, that being footage from any and all cameras showing the area outside of 212 E. Fifth Street, Greenville, NC and Mr. Dan Gerlach's presence and activities there between the time of 0210 and 0230 on the morning of Thursday September 26th, 2019.

Further that the video footage set forth in the FINDINGS OF FACT above shall be maintained for a period of one year from the date of the entry of this order and shall, where the parties can reach agreement, be provided to the Petitioner or otherwise may be brought on for a motion regarding the same to be heard in the Superior Court upon proper notice to all parties required by law to receive notice.

NO COSTS are taxed at this time.

This the \_\_\_ day of \_\_\_\_\_, 2019

---

**Superior Court Judge Presiding**

On Mon, Oct 21, 2019 at 6:50 AM Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)> wrote:  
Apologies -- as an aside, I have been texting with Faris Dixon and he is good to go - when we are ready.

On Mon, Oct 21, 2019 at 5:57 AM Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)> wrote:

Peter:

Although the thought of having this matter completed this week sounds great, I do not believe that can practically occur. For example, as discussed with you by telephone, once you file the N.C.G.S. § 132-1.4A(g) proceeding, “any law enforcement agency personnel whose image or voice is in the recording and the head of that person’s employing law enforcement agency,” “shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding.” So, any and all ECU police officers, ALE, ABC, and GPD officers who may in any portion of the footage requested (to the extent that they are, and herein not saying that they are—I have not seen the recordings), will have to be notified (along with the heads of their agencies) to determine whether they want to be heard at a hearing. This will take longer than a week.

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I will be in Superior Court most of the day today and will have limited availability.

Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

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Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Peter Romary <[peter.romary@gverity.com](mailto:peter.romary@gverity.com)>  
**Sent:** Sunday, October 20, 2019 10:02 PM  
**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** Petition and Consent Order

Good evening, Donald:

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that officers were involved in a "set up" or "conspiracy" involving Dan Gerlach and then they may be used to defend the police or police officers in the same forum or forums in which such allegations shall have been made.

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Very best wishes,

Peter

--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

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--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal



**From:** [Avaya Aura Messaging](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from 2524138155 / "N CAROLINA CALL"  
**Date:** Wednesday, October 23, 2019 11:37:12 AM  
**Attachments:** [Audio Recording S1-211936\\_001\\_compand.wav](#)

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**From:** [Avaya Aura Messaging](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from 2524138155 / "N CAROLINA CALL"  
**Date:** Wednesday, October 23, 2019 1:21:07 PM  
**Attachments:** [Audio Recording S1-212254\\_001\\_compand.wav](#)

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+1 (252) 413-8155 >

could you call this evening.

Wed, Oct 23, 1:44 PM

I am in a meeting. Can I call you later?

Absolutely—  
Wanted to give you some info I was told I could share with you out of legislature.

There have been some leaks and also some lawyers appear (stress appear) to have crossed some ethical boundaries and some UNC folks and retained folks may have crossed legal boundaries.

I am in several meetings over the next few hours. I will call you later today.

Delivered

Of course. No worries.

Wed, Oct 23, 7:21 PM



iMessage





+1 (252) 413-8155 >

I am in several meetings over the next few hours. I will call you later today.

Delivered

Of course. No worries.

Wed, Oct 23, 7:21 PM

Hi, Donald

Wanted to thank you for your help with what I'm doing — most of my work is in Private Intel sector and I do a lot out of state and in Middle East.

I also teach at Campbell Law and as I say I screen for Judicial appointees — there is plan to expand Special Superiors which (per NC Const) can be appointed by whoever legislature permits — they plan on Legislative appts that Governor can // must Appt.

I called legislators who are clients today (list grows as allegations



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I say I screen for Judicial appointees — there is plan to expand Special Superiors which (per NC Const) can be appointed by whoever legislature permits — they plan on Legislative appts that Governor can // must Appt.

I called legislators who are clients today (list grows as allegations about "Cabal" leave speculation wide open — hence why we are not telling Gerlach counsel and especially not UNC system hired counsel

I said it was possible (no promise) we could have wrapped up by Friday — again no promises. I was told that if it was and I could drop them off on Friday lunchtime // PM on way back through Raleigh they would "owe you one" — I wanted to let you know (with no impropriety meant as we have resolution worked out) that you will have many new friends in Raleigh (and in DC as I know Peter DeVos' brother well



iMessage



---

**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:17 AM  
**To:** Jones, Beth  
**Subject:** Fwd: State senator calls for reinstatement of Chancellor Gerlach, ECU Trustees support investigation

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Angela Moss <angela.moss@hotmail.com>  
**Date:** October 3, 2019 at 2:53:00 PM EDT  
**To:** Tom Fetzer <Tom@fetzerlee.com>  
**Subject:** **Fwd: State senator calls for reinstatement of Chancellor Gerlach, ECU Trustees support investigation**

**Angela Moss**  
[angela.moss@hotmail.com](mailto:angela.moss@hotmail.com)  
**(919) 348-1910**

Begin forwarded message:

**Resent-From:** <[AngelaECU@hotmail.com](mailto:AngelaECU@hotmail.com)>  
**From:** Leigh Fanning <[leighfanningecu@gmail.com](mailto:leighfanningecu@gmail.com)>  
**Date:** October 3, 2019 at 2:11:47 PM EDT  
**To:** Vern Davenport <[vern.davenport@gmail.com](mailto:vern.davenport@gmail.com)>  
**Cc:** Fielding Miller <[fielding.miller@captrustadvisors.com](mailto:fielding.miller@captrustadvisors.com)>, [mjoyner@towneinsurance.com](mailto:mjoyner@towneinsurance.com), Robbie Moore ECU TRUSTEE 2019 <[rileyoutdoor@gmail.com](mailto:rileyoutdoor@gmail.com)>, [lewisphil54@gmail.com](mailto:lewisphil54@gmail.com), Bob Plybon <[rplybon@plybon.com](mailto:rplybon@plybon.com)>, [smithv84@hotmail.com](mailto:smithv84@hotmail.com), Angie ECU <[AngelaECU@hotmail.com](mailto:AngelaECU@hotmail.com)>, Jim Seagraves <[jsegrave@flyexclusive.com](mailto:jsegrave@flyexclusive.com)>, Jason Poole <[Jason@trpcpa.com](mailto:Jason@trpcpa.com)>, Collin Johnson SGA Pres 2019/20 <[sgapresident@ecu.edu](mailto:sgapresident@ecu.edu)>, Megan Kint Ayers <[AYERSM@ecu.edu](mailto:AYERSM@ecu.edu)>, Ron Mitchelson <[mitchelsonr@ecu.edu](mailto:mitchelsonr@ecu.edu)>  
**Subject:** **State senator calls for reinstatement of Chancellor Gerlach, ECU Trustees support investigation**

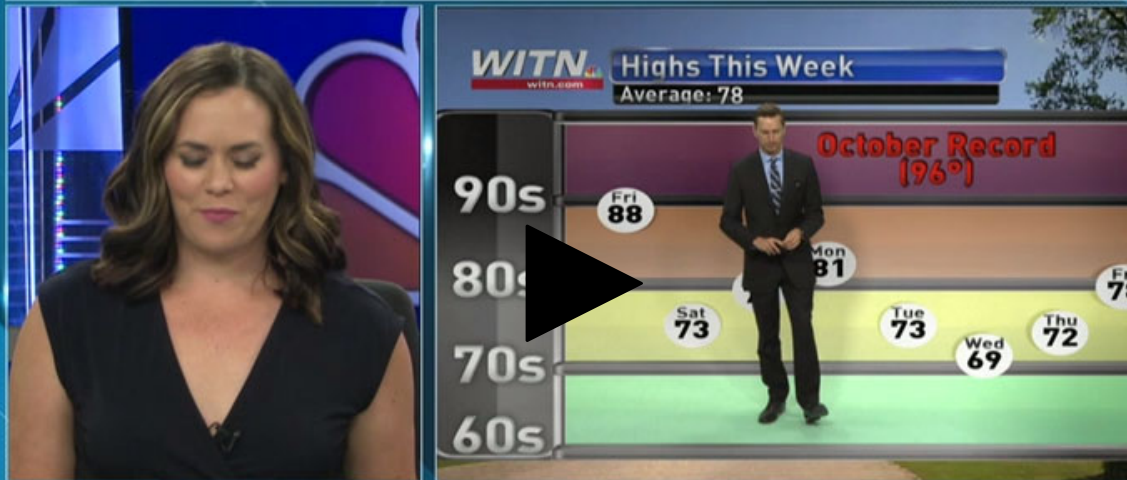
Some of you may have seen this story on our local news.

<https://www.witn.com/content/news/State-senator-calls-for-reinstatement-of-Chancellor-Gerlach-ECU-Trustees-support-investigation-562084891.html>

Sent from my iPhone

# State senator calls for reinstatement of Chancellor Gerlach, ECU Trustees support investigation

State senator calls for reinstatement of Gerlach, Truste...



## THE WEATHER AUTHORITY

Posted: Thu 1:15 PM, Oct 03, 2019 | Updated: Fri 8:30 AM, Oct 04, 2019

**GREENVILLE, N.C. (WITN)-** A state senator is calling for the reinstatement of ECU's interim chancellor, as the university's trustees chair supports a thorough investigation..

Democratic Senator Don Davis, who represents Pitt & Greene counties, in a statement Thursday afternoon voiced support for Interim Chancellor Dan Gerlach.

Gerlach has been on administrative leave since Monday after pictures and videos began circulating of him drinking alcohol and dancing at uptown Greenville bars frequented by students.

"I have personally known Dan Gerlach for many years and always known him to lead with enormous passion and integrity. My past experiences interacting with Dan do not match any of the unfortunate misperceptions of recent photos and videos of him released to the public," Davis said in the statement.

The senator, who is an ECU alumnus, also called on UNC System Interim President Bill Roper to promptly reinstate Gerlach as interim chancellor.

ECU Board of Trustees Chair Vern Davenport also sent out a statement to the ECU community Thursday morning in support of the UNC System's investigation.

"While we are all anxious to see a resolution to the investigatory period for Interim Chancellor Dan Gerlach, the ECU Board of Trustees supports Interim UNC President Bill Roper's decision to conduct a thorough investigation. At its





conclusion, we want there to be no question unanswered, and we want there to be complete confidence in the process and the outcome. We owe that to our students, faculty, staff, alumni, and to Dan," Davenport said.

The chair also said how he's proud of how the community and student have made their voices heard over the past few days.

"You give true meaning to our phrase, "Loyal and Bold.,"" Davenport said.

### **Statements from Senator Don Davis & ECU Trustees Chair Vern Davenport**

Dear ECU Community,

Pirate Nation continues to amaze me. I'm so proud of the way this community, especially our students, have made their voices heard over the past few days. You give true meaning to our phrase, "Loyal and Bold."

While we are all anxious to see a resolution to the investigatory period for Interim Chancellor Dan Gerlach, the ECU Board of Trustees supports Interim UNC President Bill Roper's decision to conduct a thorough investigation. At its conclusion, we want there to be no question unanswered, and we want there to be complete confidence in the process and the outcome. We owe that to our students, faculty, staff, alumni, and to Dan.

Pirate Nation is alive and well. That is evident. I encourage you to join me at Dowdy-Ficklen Stadium tonight as we cheer on our Pirates for this nationally televised game against Temple.

Go Pirates!

Vern Davenport

Chair, ECU Board of Trustees

(Raleigh, N.C.) – North Carolina Senator Don Davis (D-Pitt) issues the following statement regarding East Carolina University Interim Chancellor Dan Gerlach, who has been placed on administrative leave:

"I have personally known Dan Gerlach for many years and always known him to lead with enormous passion and integrity. My past experiences interacting with Dan do not match any of the unfortunate misperceptions of recent photos and videos of him released to the public. Based on my understanding of the facts, I fully stand with Dan

and call for UNC System Interim President Bill Roper to promptly reinstate him as the interim chancellor of East Carolina University. ✕

"As an alumnus and proud Pirate, this is not only in the best interest of Pirate Nation but also in the best interest of eastern North Carolina. It's time to put this behind us and refocus on the positive momentum that has come since Dan's arrival. Dan has been a breath of fresh air needed for our students, University, and eastern North Carolina."



Jacksonville Mayor Sammy Phillips wins re-election to fourth term as mayor

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**Sent:** Thursday, October 24, 2019 6:18 AM  
**To:** Jones, Beth  
**Subject:** Fwd: Greenville editor on Gerlach

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Tim Kent <tkent@ncbwwa.org>  
**Date:** October 7, 2019 at 8:28:46 AM EDT  
**To:** "Tom Fetzer (thfetzer@gmail.com)" <thfetzer@gmail.com>, David M Powers <dpowers@powersstrategies.com>  
**Subject:** Greenville editor on Gerlach

<http://www.reflector.com/Opinion/2019/10/06/Burns.html>

Tim Kent, CAE  
Executive Director  
N.C. Beer & Wine Wholesalers Association  
210 North Person Street  
Raleigh, NC 27601  
(919) 828-1161 (office)  
(336) 337-2224 (mobile)  
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# Burns: Gerlach pics anything but fake news

Sunday, October 6, 2019



Supporters of Dan Gerlach, interim chancellor at East Carolina University, launched a sustained attack against The Daily Reflector last week because of a story we published about photographs of Gerlach bar hopping in Greenville. My response to them and their cries of fake news is that our coverage has been accurate, responsible and all too real.

The story broke a week ago today when an anonymous tipster emailed the photos to me and senior reporter Ginger Livingston at the Reflector, to several other media outlets and some ECU trustees. We published a story online Sunday night and in Monday's paper.

It reported what was in the photos along with facts we were able to confirm about the night of Wednesday, Sept. 25. We correctly reported Gerlach was photographed drinking, dancing and touching female bar patrons. We published five of the photos with the story online. In print on Monday we published a photo of him chugging a beer and a front-page photo of him standing between a woman's legs.

The response to the story on social media was swift and overwhelmingly negative. The gist of most comments: Photos of the interim chancellor having a good time with students downtown was not news, and the implication that his behavior was inappropriate was tabloid fodder.

Gerlach and ECU seemed to arrive at the same conclusion when they responded Sunday to our request to interview Gerlach. ECU emailed a statement that said the photos showed him addressing concerns that the chancellor needed to be present and approachable. "I regret that these photos are being perceived as anything more," he said.

They looked like something more to me, and they looked like something more to officials who placed Gerlach on leave the next day. At the very least they raised questions. Here are a few:

Is it appropriate for the head of a university to be drinking with students at late-night bars when heavy drinking and underage drinking continue to be a pervasive problem on college campuses?

Is it wise for a man in that position in this day and age to put himself in situations with women that could be perceived the wrong way?

Would I want the chancellor to be out taking selfies with my daughters on a Wednesday night, or would I want him to encourage my daughters to be studying or sleeping?

Is this the best look for a college that has worked diligently to shed its image as a party school?

These questions and others raised by Gerlach's activities are hardly tabloid fodder. They are the type of questions we would have asked the interim chancellor Sunday if we had been given the chance. They are the type questions he has had to answer since we published the very real, front-page news on Monday.

In fact, Gerlach has since admitted publicly on several occasions that he used poor judgment that Wednesday night.

The question going forward is whether he should keep his job as interim chancellor and possibly take on the job in a permanent capacity. The decision to place him on leave and investigate the matter thoroughly should help answer that.

We can only hope rules that allow the state to withhold information in personnel matters don't cloud the outcome. University officials and Gerlach must understand that the details of this matter need to be aired in full view of the public.

Sometimes, airing the news in the full view of the public is unpleasant, but it's the only way for us to know the truth.


The truth is I like "Chancellor Dan." I like his down-to-earth approach and the energy and positive vibe he brought to ECU. The truth is, I dislike this story immensely.

The truth is that people in Gerlach's position are held to the highest standards, and if his fortunes have changed, it's because of his decisions alone.

*Bobby Burns is editor of The Daily Reflector.*


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 **The Daily Reflector**  
on Monday

Sgt. Agbar, a 10-year old Belgian malinois, adopted by a Kinston family in 2014 after three tours in Afghanistan with the U.S. Army, spent Saturday afternoon at Pet Supplies Plus on Criswell Drive to visit with customers and help the store's program to support retired military

BYH to people that rush Christmas by putting up their lights and trees before Thanksgiving. I guess you take your cues...

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# Opinion

## Writer should lament less about religion's decline

November 06, 2019

In a recent letter Bill Redding appears to lament the downswing in Americans describing themselves as Christians. (Religion should not dominate politics, Oct. 30) Then he goes on to describe all the sins of people who are not truly led by either Testament of the Bible, both Christians and Jews....

## Nov. 6 Bless Your Heart

November 06, 2019

BYH, Cecil Staton, who is saying, miss me now?

BYH P.J. Connelly. We will be glad when the election is over and no longer see your TV ads saying you are better than grits. LOL. Thanks (not) to the PAC that paid for your ads.

We must be watching the wrong channel. It's hard to beat a good bowl...

## Republicanism has no use for democracy

November 05, 2019

"This president will be in power for only a short time, but excusing his misbehavior will forever tarnish your name. To my Republican colleagues: Step outside your media and social bubble. History will not look kindly on disingenuous, frivolous and false defenses of this man." These...

## Nov. 5 Bless Your Heart

November 05, 2019

Congratulations to Farmville and Farmville Middle School for having the Best Middle School Teacher and the runner up for Best Middle School Coach in the Reflector's Best Of poll. Your community is truly blessed.

BYH to the person who says this is the best economy in our lifetime, because you...

## WOODWARD: Pirates played their best game

November 04, 2019

Performances in athletics can be great, they can be memorable and they can be record-breaking, but that doesn't always equal a win.

Sports outcomes can be cruel sometimes, which is what happened Saturday night when East Carolina played its best football game of the season — by far...



## Closure left food desert in city's center

November 04, 2019

A few months ago Harris Teeter grocery store closed its smaller store location on the corner of Charles and 14th street, leaving a big hole in the middle of Greenville.

Several of my friends have lamented the loss of this shopping option near the downtown area and close to many families in my...

## Nov. 4 Bless Your Heart

November 04, 2019

BYH to anyone who says Nov. 1 is too early to hang Christmas lights or put up the tree. There's a reason Santa loves us more than you.

BYH to the individual who desired to smell the turkey of the wealthy in the Brook Valley cut through. The best smelling turkey in the world is on a U.S. Army base...

## Time to choose in municipal elections

November 03, 2019

More than 4,200 people have voted already in the 2019 municipal elections. Many of you who will vote on Tuesday already have decided which candidates will get your vote. For those of you who have not, here is a quick review.

In Greenville, five out of seven seats on the City Council are up for...



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The Daily Reflector Retweeted



**Ron Mitchelson**  
@ECUChancellor

Bill Staub and the pep band are getting #PirateNation ready for @ecubasketball tip off 🏀 #WeTheEast 🇺🇸 -RM



16h



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@reflectornews

Greenville incumbents hold strong lead in early returns: [reflector.com/News/2019/11/0...](https://reflector.com/News/2019/11/0...)

15h

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## Jail Bookings



All Charges are preliminary  
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## President achieves success against terrorists

November 03, 2019

Five thousand gold stars to the president for successfully taking out not only Baghdadi but also Abu al-Hassan al-Muhajir a day later. Major accomplishments. And only a fool would have told the Congress in advance; they are worse than a torn fish net for keeping a secret.

G. Gary Giles  
Pitt County...

## Founding board member will be missed

November 03, 2019

Steve Harding was a founding board member of Eastern North Carolina Stop Human Trafficking Now in 2010. He began serving as secretary to the board at that time and held that position until his death.

Steve also used his creative skills as a graphic designer to benefit the nonprofit. He designed...

361 stories in Opinion. Viewing 1 through 10.

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@HumansofGville

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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:19 AM  
**To:** Jones, Beth  
**Subject:** Fwd: Gerlach pictures cause stir - Daily Reflector

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Tim Kent <tkent@ncbwwa.org>  
**Date:** September 30, 2019 at 8:49:22 AM EDT  
**To:** "Tom Fetzer (thfetzer@gmail.com)" <thfetzer@gmail.com>, David M Powers <dpowers@powersstrategies.com>  
**Subject:** Gerlach pictures cause stir - Daily Reflector

[http://www.reflector.com/News/2019/09/29/Gerlach-pictures-cause-stir.html?utm\\_source=Business+North+Carolina+Daily+Digest&utm\\_campaign=9c377aa071-EMAIL\\_CAMPAIGN\\_8\\_12\\_2019\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_7ae5defd0d-9c377aa071-112468845#new\\_tab](http://www.reflector.com/News/2019/09/29/Gerlach-pictures-cause-stir.html?utm_source=Business+North+Carolina+Daily+Digest&utm_campaign=9c377aa071-EMAIL_CAMPAIGN_8_12_2019_COPY_01&utm_medium=email&utm_term=0_7ae5defd0d-9c377aa071-112468845#new_tab)

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## Update: Mitchelson to be named acting chancellor

By Ginger Livingston  
Staff Writer

Sunday, September 29, 2019

ECU Provost and Senior Vice Chancellor Ronald Mitchelson will serve as the university's acting chancellor after interim chancellor Dan Gerlach was placed on administrative leave earlier today.

UNC System interim President Bill Roper announced the appointment in a letter sent to ECU staff and faculty at 3:30 p.m. Mitchelson is stepping into the role while the UNC System office conducts an investigation into photographs and video that depict interim Chancellor Dan Gerlach drinking at a Greenville bar and in close physical contact with female patrons.

"We expect the investigation to be conducted as thoroughly and as quickly as possible, with our first priority being what is best for East Carolina University. I thank you and all of Pirate Nation for your understanding during this time," Roper said.

This story is continuing to develop.

### Previous story

ECU's interim chancellor has been placed on administrative leave because of photos taken of him drinking at a Greenville bar on Wednesday and being in close physical contact with female patrons.

University of North Carolina System Interim President Bill Roper issued the announcement Monday morning, a day after images of Dan Gerlach began to widely circulate among university administrators.

"In light of reports from this past weekend, ECU Interim Chancellor Dan Gerlach has been placed on administrative leave pending further investigation."

### Previous story

Photographs surfaced Sunday showing ECU's interim chancellor drinking and touching female bar patrons are raising concerns among the university's leaders.

ECU Board of Trustees Chairman Vern Davenport said he is in communication with the University of North Carolina System General Administration and Board of Governors and there will be an investigation.

"I am trying to understand the facts and the context of the pictures," Davenport said.

Gerlach, in a statement released by the university, said the photographs show him addressing the concern "that our students needed a leader of the university to be present and approachable, someone who can speak to them in their language.

"I regret that these photos are being perceived as anything more than what they are," Gerlach said on Sunday.

Photographs emailed to The Daily Reflector show Gerlach dressed in khaki shorts, a faded purple polo shirt and baseball cap talking to female students.

In a series of photographs Gerlach is engaged with a woman sitting at a bar. In one photo his hand is on the back of a bar stool, partially encircling her. The young woman's leg appears to be touching his. In another photo, the young woman is standing partially behind Gerlach, and her arms encircling him. It appears Gerlach is waving at an individual who is apparently taking a photograph of Gerlach and the young woman. In another photo Gerlach's hand in on the



1 of 5

Photographs and video that surfaced Sunday showing ECU interim Chancellor Dan Gerlach touching young women at a downtown bar have stirred concerns among leaders of the university and UNC Board of Governors.

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 Sgt. Agbar, a 10-year old Belgian malinois, adopted by a Kinston family in 2014 after three tours in Afghanistan with the U.S. Army, spent Saturday afternoon at Pet Supplies Plus on Criswell Drive to visit with customers and help the store's program to support retired military

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back of the girl's neck.

There also is a 21-second video of a man reported to be Gerlach downing what appears to be a beer with other patrons.

A 10-second video shows Gerlach with his arms around two females, apparently posing for a photograph or video. The photograph shows him bobbing along to the song while holding a bottle.

A five-second video shows a young woman asking the chancellor where he had been.

"On the evening of Wednesday, Sept. 25, ECU Interim Chancellor Dan Gerlach went to Sup Dogs near the campus of the university. While there he ran into two adult male acquaintances who invited him to walk down the street to join them at a local pub, which he did," said Jeannine Manning Hutson, interim chief communications officer and director of ECU News Services.

She said the interim chancellor is known for taking selfies with students, staff and faculty on and off-campus.

"The videos and photos that you're asking about show Gerlach interacting with college-aged young adults and taking selfies," Hutson said.

"When I first started here, and even before, one constant concern that I heard was that our students needed a leader of the university to be present and approachable, someone who can speak to them in their language. That's what I've set out to do at ECU," Gerlach said.

"During the time that I am interim chancellor, I will continue to work toward balancing the university's budget and improving enrollment and will continue to engage with students and the community," he said.

"On Wednesday night, I spoke with 125 proud Pirates at Cypress Glen," Gerlach said. "Because our students are the center of the university, I've been working hard to show up — at performances, on tours, at Fall Open House (Saturday). Students are the reason the university exists."

Outgoing UNC Board of Governors Chairman Harry Smith said he wants people to reserve judgment and allow a review to happen.

"The system office will take a look at it. They will work with Dan. But I think it's completely unfair to jump to conclusions until a process takes place," Smith said. "The system office will do this correctly."

Efforts to reach a UNC System spokesman on Sunday were not successful.

Davenport said on Sunday afternoon that he had seen the photographs and spoke to Gerlach a couple of times. He said it was premature for him to render an opinion.

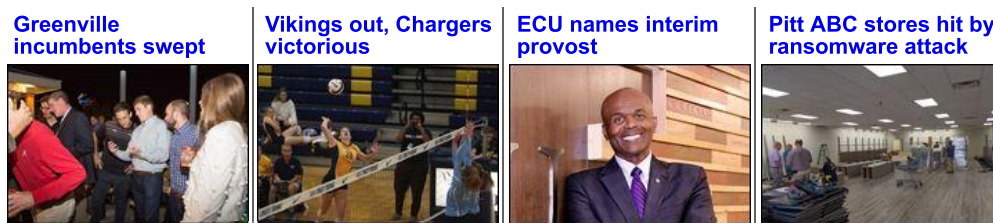
"We'll be investigating them and obviously be taking them into consideration, but at this point in time I probably don't have anymore I want to say about that because I've only seen them in the last 30 minutes or so," Davenport said about 4:30 p.m.

Davenport said Gerlach told him the photographs show him taking selfies.

"The chancellor has a 21-year-old daughter, the chancellor has been very engaged with our students but I don't know the context of these photos at this point in time," Davenport said.

"I haven't studied them enough to render an opinion but I promise you I will."

## From Today



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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:23 AM  
**To:** Jones, Beth  
**Subject:** Fwd: Chancellor Gerlach

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Jim Segrave <jsegrave@flyexclusive.com>  
**Date:** September 30, 2019 at 11:04:12 AM EDT  
**To:** "tom@fetzerlee.com" <tom@fetzerlee.com>, Harry Smith <hs681v@gmail.com>  
**Subject: FW: Chancellor Gerlach**

Another crazy person like me who seems to share my feelings, we should get all the facts first.

Jim Segrave  
Jsegrave@flyexclusive.com  
252-717-3333 cell

[www.flyexclusive.com](http://www.flyexclusive.com)

[www.facebook.com/exclusivejets](http://www.facebook.com/exclusivejets)

---

**From:** Amanda <a\_stoveken@yahoo.com>  
**Date:** Monday, September 30, 2019 at 10:50 AM  
**Subject:** Chancellor Gerlach

[EXTERNAL]

Good morning. I hope this email finds you well. I am writing to you today concerning the current situation surrounding chancellor Gerlach and the decision to place him on administrative leave.

As an alumni of East Carolina University, class of 2008, I would have been excited to have the opportunity to meet our chancellor in an informal setting and be able to learn more about what the administration was doing for the students instead of through soundbites. I greatly admire Chancellor Gerlach's ability to associate with students and be a "man of the people." Nothing that I have seen online has indicated any sort of inappropriate behavior and I find it incredibly ridiculous that the Board of Trustees and the UNC system is allowing a good man's name to be besmirched because students asked for photographs. Until the University can provide some sort of proof that this man has done anything beyond attempt to connect with students, I will completely stand behind him and withdraw my support from the University until he's reinstated. There are a great many of us who were hoping to see

his appointment as permanent Chancellor, because of what he has done for the University, the students, and its reputation.

East Carolina cannot endure another scandal. Between former Chancellor Staton's abysmal leadership and interim UNC President Roper's failure to disclose conflicts of interest, East Carolina now more than ever needs to be looking forward, to leadership that not just protects the Board's interests but puts student needs FIRST. Frankly, all of those things seem to be far more harmful to the legacy and the future of East Carolina University than a man posing for a photograph with an adult beverage.

In a time where we continuously pander to the vocal minority who see things that aren't there and take an innocent situation and view it through their perverted lens, now more than ever we need to come together and stand behind our leadership. Chancellor Gerlach has done nothing wrong by engaging with students off-campus. And it is a sad, sick, shameful world where a parent can see that and find fault.

As a member of the board of trustees, you have a voice, and your voice is to be used to reflect the best interests of the University, and right now that is to stand behind your chancellor. Defend a man who did nothing wrong. Have you never taken a photograph with a student? Have you never been out in public and approached by one of your constituents? This could easily have been you. And if it had been, would you really want no one in your corner?

I stand with Dan and I am appalled and disgusted at this chapter in our history. I urge you to make it right.

Thank you for your time and consideration in this matter and I trust you will make the right decision and immediately reinstate Chancellor Gerlach.

Sincerely,

Amanda Stoveken, LMSW





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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:23 AM  
**To:** Jones, Beth  
**Subject:** Fwd: USA TODAY: College recruiters aggressively go after out-of-state students

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Tom Furr <tpfurr@gmail.com>  
**Date:** August 19, 2019 at 8:48:40 PM EDT  
**To:** Dan Gerlach <gerlachd@ecu.edu>  
**Cc:** vern.davenport@gmail.com, smithv84@hotmail.com, SGAPRESIDENT@ecu.edu, Robbie Moore <robertmoore@rileyoutdoor.com>, Phil Lewis <lewisphil54@gmail.com>, Fielding.Miller@captrust.com, mjoyner@towneinsurance.com, leighfanningecu@gmail.com, Jim Segrave <jsegrave@lgm-enterprises-llc.com>, jason@trpcpa.com, Bob Plybon <rplybon@plybon.com>, Angela Moss <angela.moss@hotmail.com>, tom@fetzerlee.com  
**Subject:** USA TODAY: College recruiters aggressively go after out-of-state students

Dan:

Looks like we need to ramp up our recruiters since it is getting more competitive.

**College recruiters aggressively go after out-of-state students**

USA TODAY's exclusive database reveals which public universities have sharply decreased their in-state students in recent years.

Read in USA TODAY: <https://apple.news/APmawEU2RQPm0oBn5e7tXbw>

Shared from [Apple News](#)

Sincerely,

**Tom Furr**  
m: [919.697.1189](tel:919.697.1189)

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## College recruiters aggressively go after out-of-state students

USA TODAY's exclusive database reveals which public universities have sharply decreased their in-state students in recent years.

**Teghan Simonton, USA TODAY**

Updated 3:38 p.m. EDT Aug. 30, 2019

**C**helsea Marsh spends most of her days networking with high school kids. As a regional recruiter, her job is to spread awareness about the University of Alabama, and the institution prides itself on customer service, Marsh said.

She mans a table at college fairs. She schedules meetings with high school counselors and individual students. She meets with parents and students at coffee shops for hours.

“We just really value making real connections with students,” Marsh said.

She doesn't do any of this in Alabama, though; Marsh works in South Carolina.

Marsh is one of 40 regional recruiters for the University of Alabama and one of hundreds belonging to universities all over the country. The dynamic of college admissions and enrollment has changed as flagship public institutions insistently cross state lines to recruit more students.

Enrollment of out-of-state or international students is on the rise – in some places sharply.

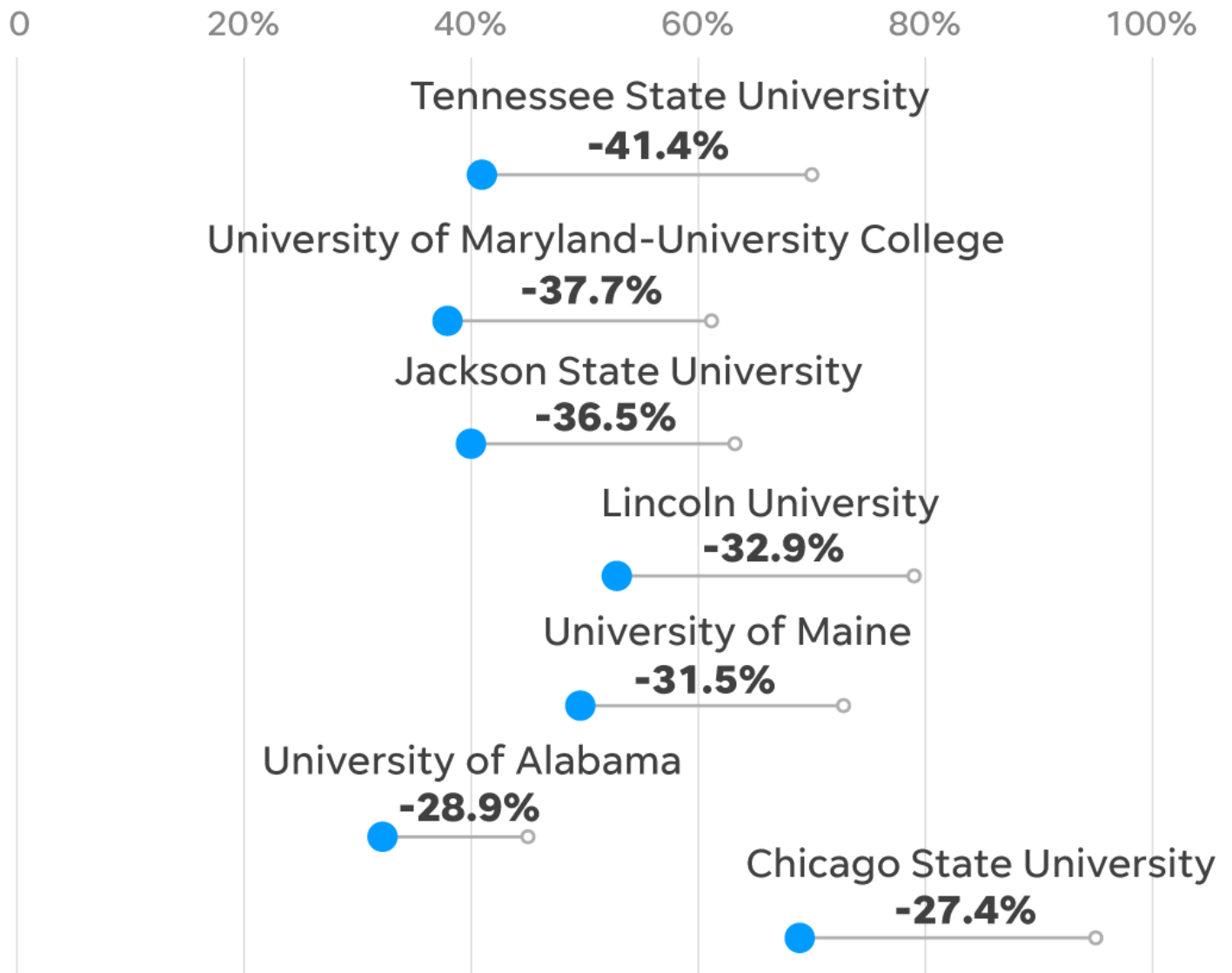
2017 than they did five years earlier, and for 46 of those, the share of in-state students is down by at least 10%, according to a USA TODAY analysis of data from the Integrated Postsecondary Education Data System.

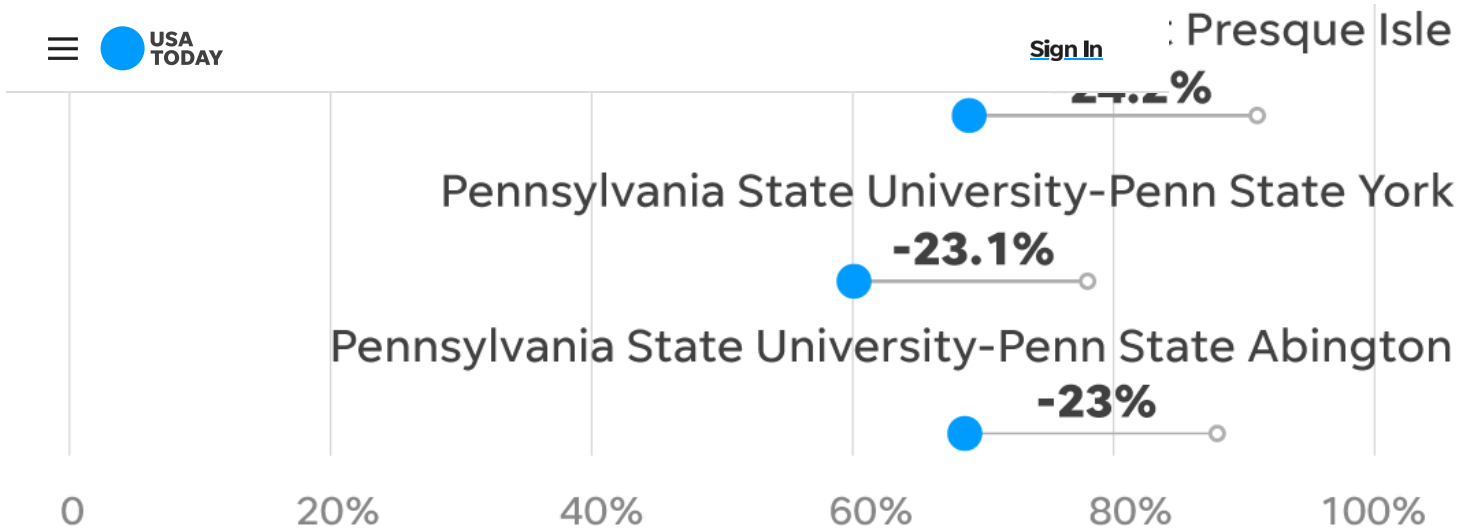
The data included public, four-year institutions offering bachelor's degrees and above, not including military academies.

At the University of Alabama, the proportion of out-of-state enrollment increased by more than 28% from 2012 to 2017 – and that was nothing compared with the University of Maryland-College's 37% or Tennessee State University's 41%.

## College freshmen classes with the biggest in-state student declines

● 2017 % of in-state students ○ 2012





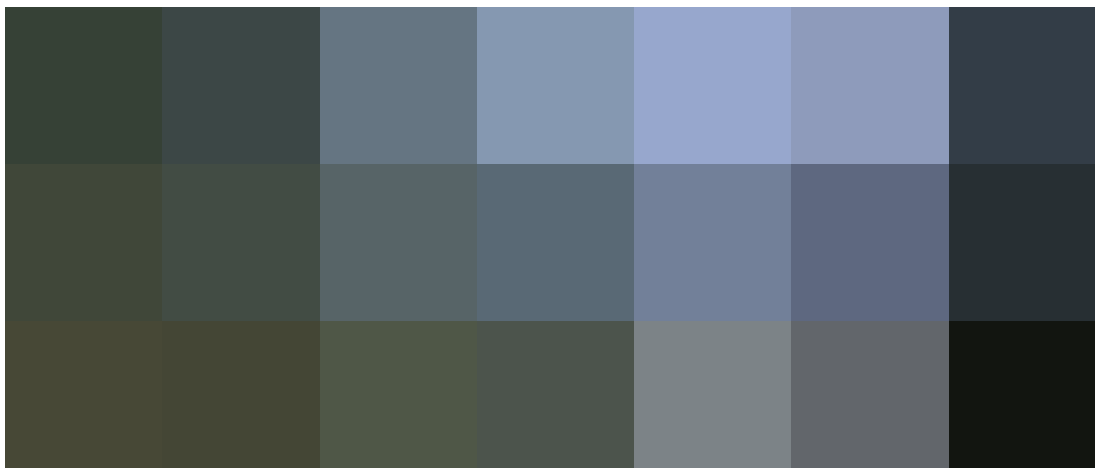
Every state in the USA has become a battleground for universities sparring to attract the most geographically diverse population, recruiting on each other's home turf and offering merit scholarships that compete with in-state tuition. For college-bound students and their parents, this can mean opportunity: greater prospects for new experiences and financial savings. It can also mean being put at a disadvantage in their own state.

**Explore the data:** [See what's happening at your school or colleges in your state](#)

**More:** [Despite trends, some public colleges say they are fighting to keep in-state students home](#)

Residents in some states have raised concerns in recent years, demanding that universities limit out-of-state enrollment. Their goal is to make sure the universities have enough space available to serve the students of taxpaying residents.

The University of California system, for instance, had become well-known for its increasing selectivity and its skyrocketing population of students from other states and countries. The proportion of in-state freshmen at the University of California-Davis decreased by more than 20% from 2012 to 2017. In the latter year, public backlash prompted the state-run system's regents to vote to cap the share of non-California students at 18%.



The University of California-Berkeley

BOB COLLOMAN / WIKIMEDIA COMMONS

Competition at a state’s flagship university has a direct influence on decisions made by college-bound students and their parents. Craig Meister, a counselor and admissions professional for 16 years, said the selectivity of states’ flagship schools often drives lower-income students to attend less selective universities in the state. For example, as in-state enrollment at the University of California campuses declines, the California State University system is flourishing with Golden State residents.

Sometimes, Meister said, the compromise can offer an avenue for students to get into their flagship eventually. It is often easier for students to transfer into a state school from somewhere else, than to be accepted as a first-time freshman. This is common practice at the University of California-Davis, according to a spokesperson. Meister sees it happening in his home state of Maryland, too.

“There’s definitely situations now, where at the most selective public university in the state, it’s not really as much of a priority anymore to really serve their state residents,” Meister said.

Why the focus on attracting out-of-state students in the first place? Expanding enrollment is one of the most visible measures of success at a university, but that has become much more difficult in recent years as goals for growing the student body outpace the available supply of college-bound high school seniors.

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Institutions such as the University of Alabama say they see out-of-state recruiting as a necessity to supplement their in-state numbers. For years, the National Student Clearinghouse has reported declining enrollment at institutions far and wide. Reports released in conjunction with the College Board show that in Alabama, 1,014 fewer SAT test-takers enrolled in college in 2017 than in 2012.

“It’s always a goal to increase enrollment,” Marsh said. “It’s become harder to pull those students from Alabama, because they’re just not physically there.”

## Large college freshmen classes with the biggest in-state student declines

Universities with more than 2,000 freshmen

● 2017 % of in-state students ○ 2012

University of Alabama

**-28.9%**

University of California-Davis

**-20.7%**

University of California-Santa Cruz

**-15.5%**

Georgia State University

**-14.7%**

University of Kansas

**-14.7%**

University of Tennessee-Knoxville

**-12.2%**

San Diego State University

**-11.4%**

University of South Carolina-Columbia

**-11.1%**

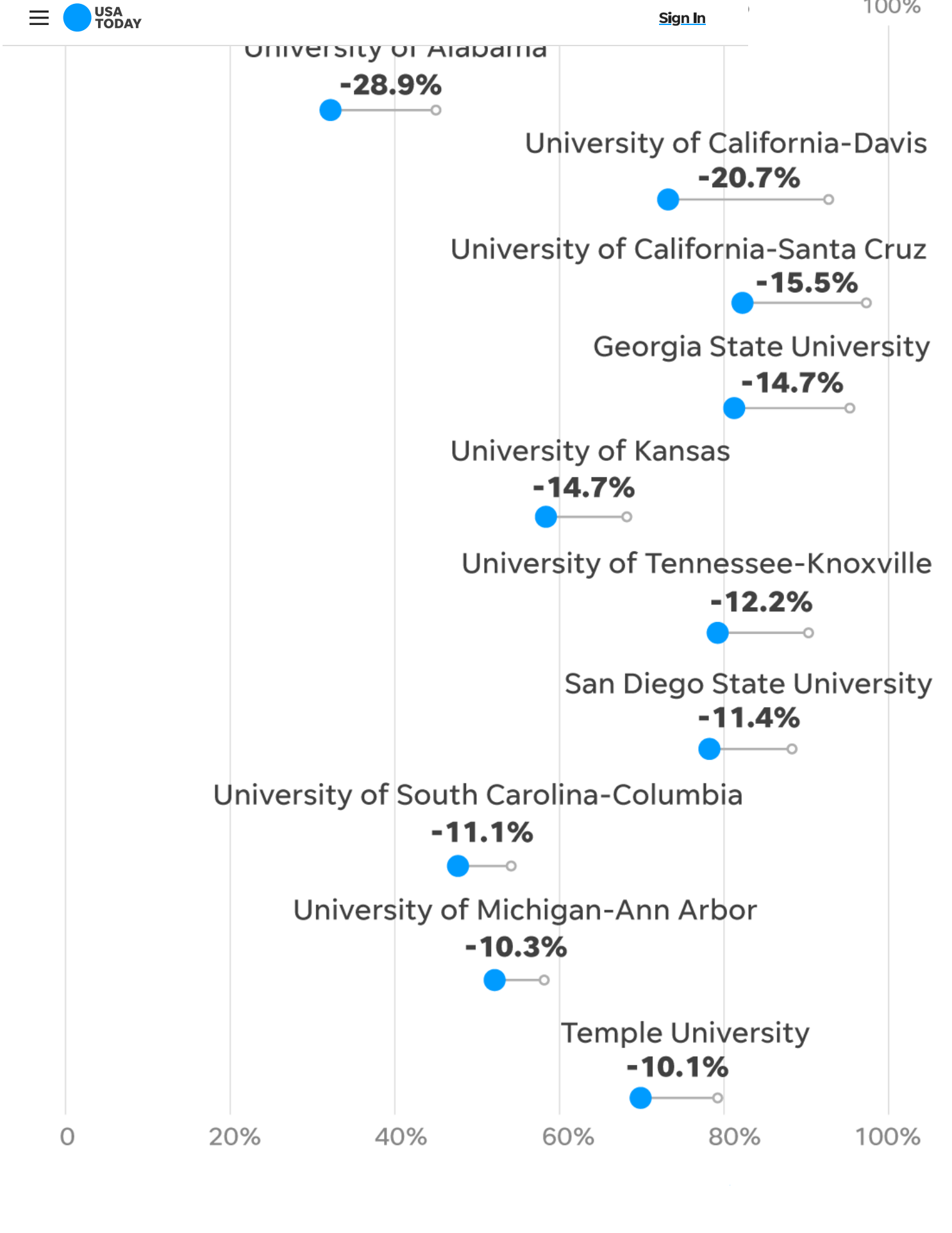
University of Michigan-Ann Arbor

**-10.3%**

Temple University

**-10.1%**

0 20% 40% 60% 80% 100%





school students are able to connect with faraway universities with ease.

A small number of state-run universities are beginning to provide breaks on out-of-state tuition, or eliminate differences altogether, for students they want to recruit from other states. For example, the University of Maine – which decreased in-state enrollment by 31.5% in five years – offers a Flagship Match Scholarship for academically qualified students from select states. Recipients of this scholarship need only pay the in-state tuition at their state’s flagship, rather than the typical \$29,310 out-of-state tuition.

Most colleges welcome out-of-state students. The University of California brought in an additional \$27,000 for every out-of-state student in 2017, according to the Los Angeles Times.

“It’s a business decision,” Meister said.

### These colleges increased out of state enrollment the most the last five years. Look up your own state or college.

This database shows the number and percent of in-state freshman in 2012 and 2017, and the percentage change over that time, according to a USA TODAY analysis of data the institutions report to the U.S. Department of Education.

Institution Name	State	In-state freshmen 2012	Percent of freshmen 2012	In-state freshmen 2017	Percent of freshmen 2017	Change, 2012-2017
Tennessee State University	Tennessee	741	70	612	41	-41.43%
University of Maryland-University College	Maryland	858	61	254	38	-37.70%
Jackson State University	Mississippi	550	63	369	40	-36.51%
Lincoln University	Pennsylvania	353	79	254	53	-32.91%
University of Maine	Maine	1,450	73	1,153	50	-31.51%
The University of Alabama	Alabama	2,846	45	2,406	32	-28.89%
Chicago State University	Illinois	308	95	90	69	-27.37%
University of Maine at Presque Isle	Maine	167	91	121	69	-24.18%
Pennsylvania State University-Penn State York	Pennsylvania	233	78	171	60	-23.08%
Pennsylvania State University-Penn State Abington	Pennsylvania	602	87	712	67	-22.99%

Source: USA TODAY analysis of data provided by institutions to the U.S. Department of Education

• NOTE: The figures for the New Jersey Institute of Technology was incorrectly listed in a previous version of this database because it was incorrect in the federal government's published data. The school's information has been updated in this version of the database

boast of one of the most geographically diverse student populations in the nation. Counselors and educators see this as a major selling point and an asset that parents and students can appreciate.

“Overall, I think it is better for schools to be diverse in every way they can,” said Laurie Weingarten, co-founder and director of One-Stop College Counseling, a private service that offers college counseling and support to high school students. “I really think it’s great for students to be exposed to all kinds of people.”

All of these factors have pushed the USA into the dawn of the regional recruiter. People such as Marsh are becoming more common, especially in metropolitan areas. They offer merit scholarships and sell flagship football and school spirit to woo out-of-staters.

Marsh's biggest challenge, she said, is convincing high school graduates to leave South Carolina, which has its own prestigious universities that offer special treatment to keep students home. Of the public universities in South Carolina, only Clemson’s percentage of in-state freshmen decreased from 2012-2017. [The rest entice more residents to stay in the state.](#)



Students assemble on the campus of the University of South Carolina.

SOUTH CAROLINA ATHLETICS

“Recruiting students from South Carolina is difficult, because there are a lot of great options within South Carolina, and scholarships that are funded by the state lottery,” Marsh said.

necessary, playing defense against universities such as Alabama and Tennessee-Knoxville, which have expanded their reach all over the country.

Amanda Wolk, a Virginia-based regional recruiter for the University of Tennessee-Knoxville, said flagship schools have entered into a sort of “arms race” to vie for out-of-state students. One reason is fewer in-state students. In Tennessee, it is free for residents to attend community college, an incentive that makes it difficult for four-year universities to recruit students in the state, Wolk said.

The University of Tennessee-Knoxville has increased its staff of regional recruiters exponentially in the past two years, employing 18 recruiters in states such as California, Texas and Florida, as well as across New England.

“There are so many schools and so many people recruiting,” Wolk said. “The more exposure you have, the better off you’re going to be.”

Originally Published 9:07 a.m. EDT Aug. 19, 2019

**Updated 3:38 p.m. EDT Aug. 30, 2019**

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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:25 AM  
**To:** Jones, Beth  
**Subject:** Fwd: ECU

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Harry Smith <hs681v@gmail.com>  
**Date:** January 17, 2019 at 5:18:09 PM EST  
**To:** Bob Rucho <brucho@carolina.rr.com>, Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Subject:** Fwd: ECU

----- Forwarded message -----

**From:** Harry Smith <[hs681v@gmail.com](mailto:hs681v@gmail.com)>  
**Date:** Thu, Jan 17, 2019 at 4:50 PM  
**Subject:** Re: ECU  
**To:** Kieran Shanahan <[Kieran@shanahanlawgroup.com](mailto:Kieran@shanahanlawgroup.com)>  
**Cc:** Staton, Cecil <[CPSTATON@ecu.edu](mailto:CPSTATON@ecu.edu)>, Kel Normann <[normann.kel@gmail.com](mailto:normann.kel@gmail.com)>, Vern Davenport <[vern.davenport@gmail.com](mailto:vern.davenport@gmail.com)>

The letter was unfortunate and created another large divide within the ECU alumnus and community and further there has been a fair amount of supporter's that have expressed regret in signing the letter.

On that point had the signers been factually informed I think you would have had a different result but again an opinion but an opinion that has had a lot of phone calls. One should also consider all the people that refused to sign it.

-The letter was written as if the trustees were united , they are not and were not and still are not today thus mis - leading and un-fair

-The President position of support had changed as well and as I'm told everyone on this e-mail was aware of that though I know thats confidential again all members on this e-mail were fully aware of that however the signers were not

-Called for the release of the 360 which again everyone on the this e-mail is aware was addressed directly by the president in a letter to Cecil and is also not allowed by NC law as you are aware.

The facts were not presented and in my opinion a very false narrative was that has hindered the ability to work through issues in a healthy professional manner where differing views and opinions are respected in a healthy process. I have not nor will I attack back and I have not ever

nor will I attack the BOT or Cecil using any media platform or in any manner. I have and will continue to ask tough governance and over-sight questions in the best interest of all our schools and I have, the only challenge in me doing that has been ECU which is unfortunate. What I have said and only within proper stake holder conversations was that in "my" opinion Cecil did not have the training nor experience to run an asset the size and with the complicity as ECU does and I still contend that today, I am not anti Cecil nor anti ECU BOT I am pro all of our schools and that certainly goes to ECU. My focus is whats the best for the institution simple as that. I further strongly believe that the Comphers decision and Stadium expansion belong to the BOT and Cecil felt tremendous pressure in both cases and unfortunately that hurt Cecil tremendously, as I have told Margaret and many others on many occasions this wasn't all Cecil's fault. With all that said it has been a circus approach and the letter stunt continued just that type of atmosphere at ECU. My time is short thus I cannot operate with games, positioning nor politics what I simply want to do is all I can while I can and unfortunately thats been very difficult and ECU again suffers.

Its an honor and privilege to be a trustee or a governor and one we take an oath to uphold, a big big part of being a trustee is professional advocacy for the institution that works with the school to build a healthy and positive atmosphere with solid results so that key and critical decision makers within the governing bodies at the BOG and legislature have faith in investing the hard earned tax dollars of North Carolina citizens and as a part of that taking the time to build personal relationships at the BOG members and within the legislatures. I want to help all I can and as much as I can whenever I can as long as I don't have to contend in an un-healthy atmosphere. There has been an incredibly large amount of false narrative on what I have actually said or done and its been unfortunate. I'm focused on what's best for the institution and sometimes that can be tough but I took the oath and I'm going to honor it as I serve to the best of my ability. My opinions and positions I take are what I believe however I have no issue nor lack of respect for those that differ along the way. I'm focused on ECU and again I'm not nor have I ever been anti Cecil nor anti BOT that's been again an incredibly unfortunate false narrative what I am is pro ECU, I have an opinion but it doesn't make me dislike anyone personally at all. If I don't support members on this next BOT vote ( I am only one vote ) its not because I don't like them personally it would be because in my opinion someone else is better positioned to serve etc but that wouldn't be anything personal, again I'm pro ECU and with that I make decisions and have opinions that I think are best for the school others that feel differently is fine with me but its not personal and I'm not going to make it that way. Thanks for the e-mail and Go Pirates

Harry

On Thu, Jan 17, 2019 at 3:35 PM Kieran Shanahan <[Kieran@shanahanlawgroup.com](mailto:Kieran@shanahanlawgroup.com)> wrote:

Our Board is making decisions based on what we believe is in the best interest of ECU. Those who signed the unsolicited letter echo our view based on what they have experienced. Let's move forward united for ECU.

We (and all of Pirate Nation) are watching closely as you put together the Budget Priorities for the System, especially ECU. Of all Pirates you are in the best position to help secure much needed funding for ECU. Yes, there are many schools in the system that are also in need (and are deserving) of funding but we both know how critical adequate funding is to eastern North Carolina. We are counting on you Harry. Go Pirates !

## Kieran Shanahan | Principal



**SHANAHAN McDOUGAL, PLLC**

128 E. Hargett Street | Third Floor

Raleigh, NC 27601

**Phone:** (919) 856-9494

**Email:** [kieran@shanahanmcdougal.com](mailto:kieran@shanahanmcdougal.com)

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**From:** Harry Smith [mailto:[hs681v@gmail.com](mailto:hs681v@gmail.com)]

**Sent:** Wednesday, January 09, 2019 7:12 AM

**To:** Margaret Spellings ([margaret.spellings@northcarolina.edu](mailto:margaret.spellings@northcarolina.edu))

<[margaret.spellings@northcarolina.edu](mailto:margaret.spellings@northcarolina.edu)>; Staton, Cecil <[CPSTATON@ecu.edu](mailto:CPSTATON@ecu.edu)>

**Cc:** Kel Normann <[normann.kel@gmail.com](mailto:normann.kel@gmail.com)>; Vern Davenport <[vern.davenport@gmail.com](mailto:vern.davenport@gmail.com)>; Kieran Shanahan <[kieran@shanahanlawgroup.com](mailto:kieran@shanahanlawgroup.com)>

**Subject:** ECU

We have another “ circus “ .... the other side has responded as you know and here we go again, and who really gets harmed is ECU. I can’t imagine why anyone would think the support letter was a good idea especially in the context and tone it was written, ECU is again being divided. We have two governing bodies ( BOG-BOT ) with lots of very smart members with diverse, strong backgrounds and when allowed to work properly will produce good decisions in the best interest of all parties but with a focus on the institutions health and well being. I am

committed to healthy , transparent , honest discussions that focus on the institution as well as those involved with it through a proper governance process. We have a BOT at ECU that is comprised of a lot of great members who all love ECU and they are the front line governing body. Social media and the press are abuzz and here we go again. Let's all put ECU first and foremost and operate with grace, dignity and respect for differing opinions and allow a healthy time tested governance process to work in any and all circumstances and the right things will happen and ECU isn't maligned along the way. Steady ahead.....thanks to all for your leadership and support.

Harry

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Sent from Gmail Mobile





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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:25 AM  
**To:** Jones, Beth  
**Subject:** Fwd: Lawyer's thoughts re ECU leadership transition, on-campus developments

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Harry Smith <hs681v@gmail.com>  
**Date:** April 8, 2019 at 4:21:17 PM EDT  
**To:** Bob Rucho <brucho@carolina.rr.com>, Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Subject:** Fwd: Lawyer's thoughts re ECU leadership transition, on-campus developments

----- Forwarded message -----

**From:** T. Greg Doucette <[greg@tgdlaw.com](mailto:greg@tgdlaw.com)>  
**Date:** Mon, Apr 8, 2019 at 4:00 PM  
**Subject:** Lawyer's thoughts re ECU leadership transition, on-campus developments  
**To:** <[roper@northcarolina.edu](mailto:roper@northcarolina.edu)>  
**CC:** <[hs681v@gmail.com](mailto:hs681v@gmail.com)>

President Roper,

I hope this email finds you doing well! We haven't yet had an opportunity to meet, but I served on the Board of Governors during the last 2 years of President Bowles's tenure (Andy Willis was our VP of Government Relations back then).

Since 2012, I have been an attorney in Durham running my own practice while keeping up with the activities in the University system from a distance. Part of that work has included representing several individuals with concerns about how East Carolina University has been operated.

For example, on behalf of a client in July 2016 I notified BOG leadership about ECU's Xanax problem, 2 years before it drew media attention as police found 2,500 Xanax bars at a fraternity house (<<https://www.wnct.com/news/local-news/2500-xanax-bars-seized-4-arrests-made-in-raid-of-ecu-fraternity-house/1115778736>>). I was also aware of Chancellor Staton's representations when he was hired, his conduct in office since, and the University's deficiencies in its internal audit process.

Unfortunately neither President Spellings nor the Board took any meaningful action in response.

As you consider who to name as the interim Chancellor, I am writing to strongly encourage you to start a preemptive house-cleaning before that person takes over. A "deep dive" into ECU will show the resignation of an alumni director asked to engage in illegal conduct, money being lost at the Brody School of Medicine (with funds diverted from elsewhere to cover the shortfall), as well as the creation of several new offices – and corresponding employment contracts – that will "lock in" personnel who should instead be shown the door. All while costing taxpayers a tidy sum of money.

Mr. Fetzer's hiring of an outside consultant to vet a candidate for the Western Carolina chancellorship last year caused some public acrimony among the Board – but it also demonstrated the importance of thorough information-gathering before making a personnel decision. The future interim at ECU would benefit from a similar review of the personnel and decisions made during Chancellor Staton's tenure.

Whether you bring in Mr. Romary as Fetzer did (see Romary's column at <https://www.jamesgmartin.center/2019/02/dont-hire-the-illusion-screening-candidates-for-unc-chancellor/>) for his perspective on campus accountability) or hire someone else entirely, someone free from partisan considerations needs to be on the ground in Greenville conducting interviews and gathering information about what's taking place. Otherwise the system leadership will be stuck learning about things from lawyers like me, or from the media.

I wish you the best as you guide this tremendous institution and its constituent universities on behalf of the sons and daughters of North Carolina.

With warm regards,  
-T.

--

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Sent from Gmail Mobile  
Please excuse TYPOS

Harry Smith

61°

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**LOCAL**

## **ECU fraternity shut down after drug-related investigation**



by: **WNCT Staff**

Posted: **Apr 11, 2018 / 07:15 PM CDT** / Updated: **May 9, 2018 / 10:31 PM CDT**

East Carolina University's Phi Kappa Tau national organization has been shut down by its national organization after four fraternity members were charged with drug-related offenses on April 10.

On April 10, Phi Kappa Tau was suspended by the East Carolina University for violations of university and fraternity policies on alcohol and safety.

“It is very disappointing to see a chapter that has strayed from our mission of providing brotherhood, learning, ethical leadership and exemplary character” said Tim Hudson, chief executive officer for Phi Kappa Tau’s national organization. “We look forward to continuing our partnership with East Carolina University who is supportive of this action.”

Any ECU investigations into individual behaviors will continue and are not impacted by the chapter closing.

Director of Greek Life John Mountz said that makes it the fifth ECU fraternity shut down in the last year.

“The level of accountability from national offices for their local chapters has increased dramatically,” said Mountz. “Fraternities and sororities are held to a very clear set of standards. When they don’t meet those standards, those organizations are facing consequences.”

When contacted, individual fraternity members said they were advised not to talk to the media.

ECU students weighted in on the closure.

“Have plenty of friends that are in fraternities, and I don’t think there is really a lot of things bad about them,” said Clint Sickert, a senior. “I just think they can get caught up in the wrong things sometimes.”

“The reason they are getting kicked off isn’t what Greek life is about,” said Madeline McGeary, an ECU sophomore who is in Greek life. “It’s about philanthropy and the social part is fun too, and I just think it is really disappointing. It puts a bad rep on Greek life.”

“We are committed to having safe, strong, healthy opportunities for students to join,” said Mountz. “We need to take responsibility for our chapter and for our community as well.”

**PREVIOUS:**

More than 2,500 Xanax bars were seized and four arrests have been made after a raid of ECU’s Phi Kappa Tau fraternity house.

The Greenville Regional Drug Task Force conducted a search warrant at the house, located at 409 Elizabeth Street, on Tuesday.

The search warrant was the culmination of a three-week long investigation.

Beside the Xanax bars, two shotguns were seized, and police said marijuana was being sold from the home.

The fraternity has been placed on interim suspension.

Grant Swanner, 20, faces the following charges:

- PWISD Sch IV (3 Counts)
- Maintain Dwelling (3 Counts)
- Poss of alcohol underage
- Poss of Drug paraphernalia

Nolan Leonard, 19, faces the following charges:

- · PWISD Sch IV
- · Maintain Dwelling
- · Poss of up to 1/2 oz of marijuana
- · Poss drug paraphernalia

Jordan Kowalski, 20, faces the following charges:

61°

William Carter, 20, faces the following charges:

- Poss Drug paraphernalia
- Poss alcohol under 21

Swanner, Leonard and Kowalski are ECU students, the university confirmed. 9 On Your Side has not been able to confirm whether Carter attended ECU or not, and his photo was not available from the Pitt County Detention Center.

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# Don't Hire the Illusion: Screening Candidates for UNC Chancellor

FEB 18, 2019



Peter Romary 

13 Comments

**W**HEN HIRING NEW WORKERS, ONE OF THE OVERRIDING CONCERNS FOR A COMPANY IS ENSURING that they hire the right people with the right qualifications. It's the same for higher education.

True, universities are dedicated to education and research, not business, but they are often institutions with billion-dollar budgets and many people with access to funds and sensitive information. For these institutions to run well, they have to ensure that top administrators are trustworthy, reliable, and will be a good fit.

Given the trouble the University of North Carolina system has had in thoroughly vetting job applicants and keeping top officials for their full term, I have some lessons for current officials as they look for not one, but two replacements for key roles in the UNC system.

As a partner at a risk management and employee screening company staffed by former CIA officers, we use a systematic approach to interviews, interrogations, and investigations that make us “check our bias at the door.” We’re expected to figure out whether applicants are deceptive or honest. The UNC system needs to adopt a similar approach.

To ensure success, university administrators need to prepare hiring committees for the three most important actions of a search: preparing for the interview, investigating the applicant, and conducting a rigorous interview.

One of the biggest problems in the job search comes from a lack of skepticism toward resume information and the psychological biases of reviewers. Many people are shocked when they hear the statistics Pamela Meyer found when writing her book, *Lie Spotting*:

- Almost 50 percent of workers surveyed said they had engaged in illegal or unethical actions in the past year;
- One in five employees say they are aware of fraud committed by others in the workplace;
- One in three resumes contain false information; and
- Deception costs private American businesses almost \$1 trillion per year.

Yet, screening committees are rarely skeptical of a resume as they prepare for an interview. They don’t question whether the provided information is true. Instead, committee members usually say: “Just look at the pedigree of this individual, the places they have worked before, and the people they know. Oh my goodness, when people see that this person works for us, they will know that we are moving up!”

Those feelings, however, lead to confirmation bias in the interview process. Interviewers end up searching for or interpreting information to support their initial view. Another problem, what psychologist Robert Cialdini calls “commitment consistency,” appears as well. That is where someone who has already made a choice will go out of their way to act consistently with their pick, especially if the selection was made in front of others.

Unfortunately, many people are often hired to run a university with only the most perfunctory of “background” checks and pro-forma interviews. Candidates are questioned by a committee of non-professional interviewers who may have a list of pre-approved questions, or may be fed bad information from university counsel. My company has seen people who lied during their interview about easily verifiable things, but often, committees miss them entirely because they were afraid to conduct independent research.

So, given that reviewers face a one-in-three chance of a job candidate “misrepresenting” their qualifications, work experience, or prior salary, it is imperative for reviewers to do their homework. They need to verify the information and conduct interviews using a proven, systematic method.

At my company, we use a system of critical analysis and question types that allow us to gauge reactions and leverage the response, asking:

- Short, clear questions with a single meaning;
- Questions of hypothetical ethical situations and team challenges;
- Questions to discern a candidate's honesty; and
- Questions that include both presumptive and bait scenarios, i.e. those where the interviewee does not know what the interviewer may know and is in a precarious situation if they lie.

This questioning, though, should not be done in a committee setting; I have found the adage to be true that “no one confesses to a crowd.” Furthermore, the interviewer must notice a candidate's non-verbal cues and listen to their verbal cues with equal intensity. No one is a “human lie detector,” but someone with training and experience will be far more effective at interviewing.

Interviewers must also ask questions that provide insights into how a person will work as a leader.

Areas, including the ability of a person to hold confidences, can be probed with some simple questions. Inquiry into one area once led a lady to open up to me about a significant substance abuse problem. I simply let her talk and, to the surprise of Human Resources, the CEO hired her because she “had been forthcoming and honest” and “while substance abuse issues can be treated, there is no treatment to make a dishonest person this honest.”

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**My company has seen people who lied during their interview about easily verifiable things, but often, committees miss them entirely because they were afraid to conduct independent research.**

---

Questions asked in a low-key manner also ensure that the interviewee responds to the question itself, rather than to the way it was asked. A soft, non-adversarial demeanor is the best way to get information.

Asking a candidate about their view of themselves can also be revealing. Is this a person who seeks objective feedback on their performance without being punitive toward the honest? Is this someone whose ego, thin skin, or fear drives their decision-making? Is this someone who will surround themselves with experts, without fear of how this will make them look?

After doing the homework, investigating an applicant's background, and interviewing them, external re-screening interviews every few years ensures a successful hire. Internal reviews cannot always get candid answers and impartial interviewers. By doing an external re-screening, universities get useful information from important officials and their coworkers. Listening, observing, and following up with further questions and investigating areas of concern are crucial for hiring and keeping talented individuals.

Skipping a rigorous screening process can have lasting negative consequences. Even so, it's difficult for people to overcome their psychological biases. I remember once conducting a background investigation and discovering false information on a CV. The hiring authority was immediately informed, yet they still wanted to hire the individual because they were so nice. This authority's opinion was formed early on (commitment) and then clung to even when shown that this person was as good at fiction writing as J.K. Rowling (consistency).

The greater danger of a bad screen process, however, lies in the erosion of institutional authority. If we allow the liars and cheats to lead our institutions, then we will institutionalize—and normalize—lying and cheating.

With people “shading the truth” on their CVs, we need more people able to properly interview, critically analyze, and investigate job candidates. For a job as difficult and trying as leading a UNC school or the system itself, choosing a person of high integrity and talent is crucial. Investigating candidates “with dignity and grace,” as UNC Board of Governors chair Harry Smith said, could ensure that we have honest and honorable leaders for the great system of higher education that exists in North Carolina.

*Peter Romary is general counsel and a partner in QVerity, a risk management and screening firm founded by former CIA Officers located in Greenville, North Carolina.*

[hiring](#) [North Carolina](#) [UNC-CH](#)



AUTHOR  
**Peter Romary**

## **Don't Hire the Illusion: Screening Candidates for UNC Chancellor**

FEB 18, 2019 › Governance, Innovation

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**DrOfnothing** • 8 months ago • edited

"As a partner at a risk management and employee screening company staffed by former CIA officers, we use a systematic approach to interviews, interrogations, and investigations that make us 'check our bias at the door.'"

No personal offence meant to the author, but an academic interview is neither an interrogation of a suspect nor a criminal investigation. These are meant to be collegial interactions, and the challenge, especially at the level at which these pending searches will be conducted, is convincing highly-qualified candidates to forgo much larger salary and benefit packages in the private sector. These are remarkably astute and well-educated individuals, and the kind of simple

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**North Carolina Higher Education Stakeholders Luncheon with Dr. Richard Vedder**

Jan 30, 2020, 12:00 pm–1:30 pm

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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:26 AM  
**To:** Jones, Beth  
**Subject:** Fwd: ECU Review

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Mike Williford <mwtruth@aol.com>  
**Date:** January 31, 2019 at 4:15:29 PM EST  
**To:** Fetzer Tom <tom@fetzerstrategicpartners.com>  
**Subject:** Fwd: ECU Review

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**From:** <[willifordlawfirm@aol.com](mailto:willifordlawfirm@aol.com)>  
**Date:** January 31, 2019 at 4:08:54 PM EST  
**To:** [mwtruth@aol.com](mailto:mwtruth@aol.com)  
**Subject:** Fwd: ECU Review

-----Original Message-----

From: William L Roper <[roper@northcarolina.edu](mailto:roper@northcarolina.edu)>  
To: Harry Smith <[hs681v@gmail.com](mailto:hs681v@gmail.com)>; Randy <[rramsey@jarrettbay.com](mailto:rramsey@jarrettbay.com)>; Pearl Burris-Floyd <[pearlbffloyd@gmail.com](mailto:pearlbffloyd@gmail.com)>; Mike Williford <[willifordlawfirm@aol.com](mailto:willifordlawfirm@aol.com)>  
Cc: Thomas C. Shanahan <[tcshanahan@northcarolina.edu](mailto:tcshanahan@northcarolina.edu)>; Pete Brunstetter <[pbrunstetter@northcarolina.edu](mailto:pbrunstetter@northcarolina.edu)>; Chris McClure <[cmclure@northcarolina.edu](mailto:cmclure@northcarolina.edu)>; Willis, Andy <[Andy.Willis@unchealth.unc.edu](mailto:Andy.Willis@unchealth.unc.edu)>  
Sent: Thu, Jan 31, 2019 11:32 am  
Subject: ECU Review

Dear Harry, Randy, Pearl, Wendy, and Mike,

As I get up to speed on ECU matters, I would like gain a thorough understanding of the situation at ECU and the institution's needs before making decisions on how best to proceed. To that end, I have tasked Pete Brunstetter, a member of our transition team, to gather facts, information, and perspectives about ECU and any current leadership challenges, including the recent controversy concerning the alumni event.

I have asked Pete to go to Greenville starting next week. He will meet individually with Chancellor Staton, members of the ECU staff, certain trustees, and others in the ECU community. During his meetings, he will gather facts and information about how ECU

and the chancellor are performing, which will put me in a position to understand and evaluate particular strengths, opportunities, and challenges. Pete is well-suited for this task. He is an experienced and respected lawyer and leader from Winston-Salem, having most recently served as general counsel for Novant Health. As you know, he is also a former state senator, and served as chair of the Senate Appropriations Committee.

We will conclude this review quickly and in a business-like fashion. I expect the outcome of the review to inform my decision-making and recommendations as we move forward. Meanwhile, if there are particular things you want to call to Pete's attention, please send those to Tom Shanahan, who will see that Pete receives them.

This is an important matter, and we are doing our job.

Thanks very much,

Bill

PS – We will send this same message to all BoG members tomorrow.

**WILLIAM L. ROPER, MD, MPH**

Interim President

The University of North Carolina System

o: (919) 962-4622

[roper@northcarolina.edu](mailto:roper@northcarolina.edu)

[www.northcarolina.edu](http://www.northcarolina.edu)





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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:29 AM  
**To:** Jones, Beth  
**Subject:** Fwd: Statement from ECU regarding "40 under 40" Leadership Awards

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Begin forwarded message:

**From:** Harry Smith <hs681v@gmail.com>  
**Date:** January 30, 2019 at 8:43:33 PM EST  
**To:** Bob Rucho <brucho@carolina.rr.com>, Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Subject:** Statement from ECU regarding "40 under 40" Leadership Awards

----- Forwarded message -----

From: **Joshua N Ellis** <[jnellis@northcarolina.edu](mailto:jnellis@northcarolina.edu)>  
Date: Wed, Jan 30, 2019 at 5:26 PM  
Subject: Fwd: Statement from ECU regarding "40 under 40" Leadership Awards  
To: [hs681v@gmail.com](mailto:hs681v@gmail.com) <[hs681v@gmail.com](mailto:hs681v@gmail.com)>, Harry Smith <[hsmith@bog.northcarolina.edu](mailto:hsmith@bog.northcarolina.edu)>  
CC: Chris McClure <[cmclure@northcarolina.edu](mailto:cmclure@northcarolina.edu)>

Harry,  
Here's the statement from ECU.  
Josh

**Josh Ellis**  
Associate Vice President for Media Relations  
University of North Carolina System  
910 Raleigh Road | Chapel Hill, NC 27514  
(o) [919.962.4629](tel:919.962.4629)  
[jnellis@northcarolina.edu](mailto:jnellis@northcarolina.edu)  
[www.northcarolina.edu](http://www.northcarolina.edu)

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**From:** ECUNEWS <[ECUNEWS@ECU.EDU](mailto:ECUNEWS@ECU.EDU)>  
**Date:** January 30, 2019 at 4:56:32 PM EST  
**To:** ECUNEWS <[ECUNEWS@ECU.EDU](mailto:ECUNEWS@ECU.EDU)>

Cc: "Eppes, Thomas E" <[EPPEST17@ECU.EDU](mailto:EPPEST17@ECU.EDU)>, "Hutson, Jeannine Manning" <[HUTSONJ@ECU.EDU](mailto:HUTSONJ@ECU.EDU)>

**Subject: Statement from ECU regarding "40 under 40" Leadership Awards**

See below for a statement from East Carolina University regarding the "40 under 40" Leadership Awards:

"40 Under 40" is a program under the Division of Student Affairs that recognizes ECU alumni who have made significant contributions to the University and their communities. Upon the release of this year's honorees, there were concerns raised about the divisive nature of certain selections. These concerns were voiced from both within the university as well as external stakeholders. Given the widespread concerns and the need for an internal review, various options were considered for this year's recognition event, including rescheduling the program to coincide with ECU's homecoming celebration. Contrary to some reports, at no time was cancellation of the event contemplated. Ultimately, it was decided to continue with the event on March 23 as originally planned. A review of the broader processes for managing the program will occur regarding future events.

# # #

### **ECU News Services**

Howard House, 1001 E. Fifth Street

Greenville, NC 27858

[ecunews@ecu.edu](mailto:ecunews@ecu.edu)

Phone: 252-328-6481

[www.ecu.edu/news](http://www.ecu.edu/news)

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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:30 AM  
**To:** Jones, Beth  
**Subject:** Fwd: ECU Since 2016

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

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**From:** Harry Smith <hs681v@gmail.com>  
**Date:** March 31, 2019 at 9:43:22 AM EDT  
**To:** Bob Rucho <brucho@carolina.rr.com>, Thom Goolsby <thomgoolsby@gmail.com>, Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Subject:** Fwd: ECU Since 2016

----- Forwarded message -----  
From: **Thomas Furr** <[tpfurr@gmail.com](mailto:tpfurr@gmail.com)>  
Date: Sun, Mar 31, 2019 at 9:03 AM  
Subject: ECU Since 2016  
To: <[hs681v@gmail.com](mailto:hs681v@gmail.com)>

Harry:

As a new member of the BOT I would like to better understand where ECU stands today. Below is a timeline of the facts on where ECU stands today compared to 2016 based on public record. Please let me know if I have missed anything that is not factual or not found a material issue that is public record. Thanks.

Athletic Dept.

1. 2016/2017 - \$60 million dollar capital campaign is started without any mention of department finance issues (<https://ecupirateclub.com/news/2017/1/27/general-williams-foundation-commits-1-million-towards-dfs-renovation-campaign.aspx?path=general>)
2. July 2017 - Compher's is given a 5 year extension (<https://247sports.com/college/east-carolina/ContentGallery/ECU-AD-Jeff-Compher-Contract-Extension-Details-107021974/>)
3. March 2018 Compher's is fired but budget is in great shape (<http://www.reflector.com/ECU/2018/03/18/ECU-official-Athletic-finances-will-rebound.html>)
4. September 2018 - Budget actually has a deficit (<https://247sports.com/college/east-carolina/Article/ECU-athletics-still-working-to-solve-budget-deficit-121510131/>)



5. November 2018 - BOT increases fees on students of \$1.1M to shore up athletic dept. (<https://www.witn.com/content/news/ECU-trustees-committee-okays-controversial-student-fee-hike-499317801.html>)
5. December 2018 - Budget is shored up with \$20M from reserves/medical school (<http://www.reflector.com/ECU/2018/12/06/Transfers-helping-Pirates-settle-debt.html>)

### School Finances

1. 2016 - \$34 million in positive cash flow
2. 2017 - \$18 million in positive cash flow
3. 2018 - \$8 million in positive cash flow
4. 2019 - Negative cash flow still to be determined by Dr. Roper - (<http://businessnc.com/report-ecu-finances-show-waning-cash-flow/>)

### Enrollment

1. 2015 to 2016 - 69% Acceptance - (<https://www.google.com/search?q=ecu+acceptance+rate&oq=ecu+acc&aqs=chrome.0.0j69i60j0l4.5742j1j7&sourceid=chrome&ie=UTF-8>)
2. 2018 to 2019 - 79% Acceptance - (<https://www.collegesimply.com/colleges/north-carolina/east-carolina-university/admission/>)

Sincerely,

**Tom Furr**

m: 919.697.1189

e: [tpfurr@gmail.com](mailto:tpfurr@gmail.com)

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General | August 18, 2016

## Williams Foundation Commits \$1-Million Towards DFS Renovation Campaign



**GREENVILLE, N.C.** – East Carolina University Athletics and the ECU Pirate Club have announced a \$1 million leadership commitment from the Walter and Marie Williams Foundation. This gift supports the \$55-million Dowdy-Ficklen Stadium Southside Renovation Campaign, targeted to be completed in the fall of 2018.

Long-time Greenville residents and loyal ECU Athletics supporters, Walter and Marie Williams' leadership gift will be recognized through the naming of the Indoor Hitting Facility at Clark-LeClair Stadium.

"There is no other couple that has devoted more heart and soul to Pirate Athletics than Walter and Marie Williams," ECU Director of Athletics Jeff Compher said. "This Southside Renovation Project is another opportunity for them to invest in the future of our athletics program and they have stepped up yet again! They are





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EVENTS



# PIRATE CLUB



acting as the executive president. He provided his leadership and vision serving as the co-chair on three capital campaigns including "Kickoff to Victory" for the Murphy Center, "It's a Whole New Ballgame" for Clark-LeClair Stadium and "Step Up to the Highest Level" for the Williams Hall of Fame Facility and ECU Men's and Women's Basketball Practice Facilities.

The campaigns have been successful ventures for the Pirates.

"Walter and Marie Williams are the ultimate Pirates," Executive Director of the Pirate Club [J. Batt](#) shared. "They have led from the front on every capital campaign and have stepped up again. ECU is a better place because of the Williams family."

According to Walter, this campaign is no different than those of the past. A successful campaign will establish the foundation for a successful future for ECU Athletics.

"The construction and renovation of our facilities through successful capital campaigns offers our student-athletes, teams and coaches the tools and resources to achieve," Walter Williams explained. "If you want to play the best, you have to be competitive. One of the ways is through our facilities."

However, success cannot be achieved without each member of Pirate Nation taking part in the Dowdy-Ficklen Stadium Southside Renovation project.

"We cannot grow without assets," Walter Williams said. "Our asset is each member of Pirate Nation - each person who makes up Pirate Nation. There is no doubt, each of us has pride in being a Pirate, but we must act the part through support of a capital campaign of this magnitude. It plays a significant part in ECU Athletics' future success."

Both Walter and Marie attended ECU in the 1950s, then known as East Carolina Teachers College. Walter graduated in 1951 with his bachelor's degree in health and human performance before returning to obtain his master's degree in education supervision in 1955. Marie received her education degree in 1953. The couple values the importance of education.

Even today, their ECU legacy is tied to the education of students. Their gifts have provided access to education, not only for student-athletes, but other student populations. The Williams' support three endowment scholarships and provided the founding gift of the STEPP program – Supporting Transition and Education through Planning and Partnerships – opening an educational opportunity to those who may not have pursued it.

"Walter and Marie Williams have stepped up once again to show their support of Pirate Athletics with this gift to the Southside Renovation Project," Pirate Club Executive President Danny Nichols stated. "They continue to show their leadership with not only their financial support, but also with their presence at Pirate athletic events. The Pirate Nation is truly blessed to have the support and generosity of Walter and Marie Williams."





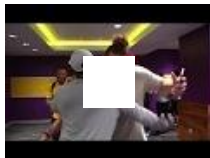
# PIRATE CLUB



For more information on how to support the Dowdy-Ficklen Stadium Southside Renovation project, contact the ECU Pirate Club at 252-737-4540 or [ecupirateclub@ecu.edu](mailto:ecupirateclub@ecu.edu).

[Print Friendly Version](#)

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ECU Football Locker Room Unveil



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# PIRATE CLUB



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Pirate Club Armada Schedule Announced



03.26.19

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# PIRATE CLUB



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## A look into Jeff Compher's recent contract extension

By [STEPHEN IGOE](#) - Sep 6, 2017

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Jeff Compher (Photo: Greg Thompson/Icon Sportswire, Getty)

After several requests from ECU fans and site members, through our inquiry under the NC Public Records Act, *Hoist The Colours* obtained a copy of Director of Athletics Jeff Compher's recent contract extension, which went into affect July 1, 2017.

Compher's base salary went from \$365,000 to \$435,000, and the contract - which was set to expire in 2018 - now is guaranteed through April 2023. Compher also has

opportunities to earn "longevity bonuses," supplemental pay and other bonuses for the performances of ECU's athletic programs.

The contract extension was announced in late June.

Scroll through the following slides to see the complete contract.

SLIDE 1 of 22 

**PAGE 1**



COUNTY OF PITT

STATE OF NORTH CAROLINA

**AMENDED AND RESTATED EMPLOYMENT AGREEMENT**  
**Director of Athletics**



THIS AMENDED AND RESTATED AGREEMENT ("Agreement"), made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2017 by **East Carolina University** ("ECU" or "UNIVERSITY"), an educational institution and public university of the State of North Carolina, and C. Jeffrey Compher ("DIRECTOR").

**WITNESSETH:**

WHEREAS, ECU is a constituent institution of the University of North Carolina and maintains an intercollegiate athletics department within Division I of the National Collegiate Athletics Association ("NCAA");

WHEREAS, DIRECTOR is experienced in the administration of athletics at the Division I intercollegiate level;

WHEREAS, ECU employed the DIRECTOR in 2013 pursuant to that certain Employment Agreement dated May 31, 2013 ("Original Agreement") between the ECU and DIRECTOR (collectively, the "Parties");

WHEREAS ECU wishes to extend the employment of DIRECTOR under amended terms and conditions employment, all of which are stated in this Agreement, which is intended to revoke and replace the Original Agreement in its entirety, and DIRECTOR desires to engage in such continued employment under the terms and conditions set forth below; and

WHEREAS, the parties acknowledge that although this Employment Agreement ("Agreement") is sports-related, the primary mission of ECU is education, and, accordingly, the primary purpose of all ECU's legal arrangements, including this Agreement, is the furtherance of ECU's educational mission.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter set forth, the parties agree as follows:

**I. TERM OF EMPLOYMENT**

- A. ECU employs DIRECTOR as Director of Athletics for a term of ten (10) years beginning on April 30, 2013 and ending on April 30, 2023 (the "Term"). DIRECTOR accepts employment in this position and agrees to faithfully and diligently perform the duties of DIRECTOR, as set forth herein.

DIRECTOR's employment under this Agreement shall continue until the ending date set forth above, unless terminated earlier as provided herein or extended beyond the date as the parties shall agree in writing and as approved by the Chancellor and, if required by applicable policy, by UNIVERSITY's Board of Trustees.

- B. DIRECTOR shall be considered a non-faculty Senior Academic and Administrative Officer Tier II ("SAAO Tier II") employee and shall be subject to all employment

Director-Tier II ( SAAO Tier II ) employee and shall be subject to an employment policies for SAAO Tier II employees of the University of North Carolina ("UNC") Board of Governors and for ECU SAAO Tier II employees, including revisions from time to time. The employment policies are contained in the Code of the UNC Board of Governors and ECU's policies, regulations and rules. Such policies may be accessed at: [http://www.northcarolina.edu/policy/index.php?pg=dl&id=s269&inline=1&return\\_url=%2Fpolicy%2Findex.php%3Fpg%3Dvb%26tag%3DChapter%2B300](http://www.northcarolina.edu/policy/index.php?pg=dl&id=s269&inline=1&return_url=%2Fpolicy%2Findex.php%3Fpg%3Dvb%26tag%3DChapter%2B300) and at [http://www.ecu.edu/cs-admin/humanresources/CUSTOMCF/EPA\\_Administration/Management\\_Flexibility\\_Plan\\_and\\_Related\\_Policies/EPA\\_Employment\\_Policy.pdf](http://www.ecu.edu/cs-admin/humanresources/CUSTOMCF/EPA_Administration/Management_Flexibility_Plan_and_Related_Policies/EPA_Employment_Policy.pdf) and are incorporated herein by reference. DIRECTOR acknowledges that he has read and understands these policies.

- C. In accordance with ECU policy, the Chancellor shall provide a written evaluation of the DIRECTOR's performance on an annual basis, due no later than June 30 of each year.
- D. ECU requires that a criminal background check be conducted on all new and current employees who change jobs due to promotion, transfer or reassignment. DIRECTOR will cooperate in the standard process used by ECU to obtain a background report and ECU may revoke this Agreement without cause if it does not receive a criminal background report that the University deems satisfactory under the terms of its policy prior to April 1, 2013.

## II. DUTIES

- A. ECU hereby employs DIRECTOR as the Director of Athletics with all the duties, responsibilities and obligations normally associated with the position of Director of Athletics. Duties shall include, but not be limited to, the following:
  - (1) Devote his best efforts full time in leadership, supervision and promotion of ECU's athletic programs;
  - (2) Be responsible for direction and review of ECU's intercollegiate athletic policies and programs;

## ADVERTISEMENT

- (3) Assure that ECU's Athletics Department has plans, policies, procedures and programs that are in compliance with the Constitution and Bylaws

and programs that are in compliance with the Constitution and Bylaws of the American Athletic Conference, Conference USA or such other athletic conference as the University may be affiliated with and which rules are applicable in the situation at issue (the "Conference") and also with the Constitution, Bylaws, rules and regulations of the NCAA; all State and Federal laws and policies and procedures of The University of North Carolina and ECU; and that promote the mission of the Department, ECU's high standard of academic excellence and the general welfare of student-athletes;

- (4) Understand, observe and uphold all standards, including but not limited to academic standards and requirements, policies, rules and regulations of ECU as well as the Constitution and Bylaws of the Conference and of the NCAA, all applicable State and Federal laws, and all policies and procedures of The University of North Carolina as may be amended from time to time, and ensure compliance with all of the same standards, requirements, policies, rules, regulations, Constitution, Bylaws, laws and procedures by all coaches and other athletic department personnel as well as the programs of ECU's Athletics Department;
- (5) Use his best efforts to foster academic values, maintain program integrity and encourage and contribute to the academic progress of all student athletes and to ensure that all academic standards, requirements and policies of ECU are observed, including those in connection with the recruiting and eligibility of perspective and current student athletes and specifically with regard to the recruiting of student athletes who are academically qualified;
- (6) Develop procedures and programs that assure the welfare of student-athletes; ensure that coaching and administrative staff actively support the Department and ECU's joint commitment to academic achievement for each student-athlete, to include promoting academic advising and counseling services; promote an environment that encourages student-athletes to achieve the best grades possible and to make progress toward a degree in a defined academic program;
- (7) Diligently seek to promote athletic excellence and a competitive program on local, conference and national levels for the men's and women's intercollegiate varsity sports programs and coordinate with and advise the Chancellor on the recruitment, selection and evaluation of all coaches; maintain responsibility for scheduling athletic events and games and identify and recommend adding or removing varsity sports teams;

- (8) Maintain and enforce any and all disciplinary policies and drug/alcohol policies of ECU, including but not limited to policies requiring suspension of student athletes for criminal behavior or other misconduct;
- (9) Diligently seek to maintain effective relations with governing boards, associations, conferences, committees, alumni, students, faculty and staff,

including, without limitation, collaborating with the Provost, the Division of Academic Affairs and its academic support program, to diligently seek to ensure that student-athletes receive encouragement and appropriate assistance, and collaborating with the Vice Chancellor for Student Affairs in the planning of facilities that are supported with student fees;

- (10) Direct athletic fundraising, marketing, and media relations; manage and, subject to the direction of the Chancellor, coordinate interactions between the Department of Athletics and the East Carolina University Educational Foundation, Inc. ("Pirate Club"), including its Board, and work with the Pirate Club to coordinate capital fundraising for facilities and athletic scholarships; identify needs for renovation and repairs consistent with principles of sports medicine and equal access in athletics; with legal advice from the Office of University Counsel, negotiate and recommend sports marketing, apparel and shoe sponsorship arrangements;
- (11) Coordinate and support activities that promote Pirate Club member and alumni participation through support of athletic-related events in Greenville and at other locations in North Carolina and elsewhere;
- (12) Consult regularly with the Faculty Athletics Representative and the Senior Associate Athletic Director for Compliance regarding the interpretation of applicable rules and bring any material differences of opinion (with respect to material issues or concerns) to the Chancellor for resolution;
- (13) Promptly advise the Chancellor, the University Counsel and Vice Chancellor for Legal Affairs, or the Senior Associate Athletic Director for Compliance if the DIRECTOR has any reason to believe that any violation of NCAA or Conference constitutional provisions, bylaws, rules or regulations has occurred or will occur and cooperate fully in any investigation of possible violations conducted or authorized by the UNIVERSITY, the Conference or the NCAA at any time;
- (14) Submit reports, recommendations and supporting documentation to the Chancellor or his designee, as necessary, to make decisions regarding academic goals and other sport-focused aspects of the intercollegiate athletics program;
- (15) Direct ECU's intercollegiate athletic events and activities, including management of staff, maintenance and development of athletic facilities,

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- (16) Diligently seek to be fully knowledgeable of applicable laws, policies, regulations and rules regarding financial transactions and business operations and ensure compliance with the same by the Athletics Department;
  - (17) Annually provide written evaluations to each head coach and each member of the athletics staff who reports directly to the DIRECTOR and ensure that all other coaches and staff within the Athletics Department receive written evaluations annually from his or her respective supervisor;
  - (18) Promote ECU's commitment to equal opportunity and affirmative action and compliance with Title IX, including but not limited to a commitment to avoid requesting waiver of competitive searches to fill vacant positions except in the event of exceptional circumstances;
  - (19) In full recognition of the Pirate Club's separate legal status, and consistent with any and all contracts or agreements between the University and the Pirate Club, the DIRECTOR shall diligently seek to ensure that he, the Athletics Department and, to the full extent possible, the Pirate Club, act in tandem and full cooperation with the Office of the Chancellor and the ECU Division of Advancement ("Advancement") in seeking to align and facilitate the University's capital campaigns, Athletically-related fundraising efforts and all other fundraising activities by the University or any of its recognized Associated Entities, including, but not limited to, facilitating the full and prompt communication of Athletically-related fund raising information between the Athletics Department, the Office of the Chancellor, and Advancement. This shall include, for purposes of coordination of activity, providing the Chancellor or his designee with notice of and opportunity to review fund-raising plans in advance of execution, presentation or delivery of reports on fund-raising activity, updates, timely alerts, and such other information pertaining to Athletically-related fundraising as requested by the Chancellor and/or as is reasonably necessary to fulfill the Director's duties herein; and
  - (20) Perform such other duties as reasonably assigned from time to time by the Chancellor that are consistent with the duties typically performed by the athletics directors of NCAA Division I member institutions.
- B. DIRECTOR agrees to faithfully and diligently perform the duties of this position and to devote such time, attention and skills to the performance of these duties as necessary to meet the responsibilities of the position of DIRECTOR. During the Term of this Agreement, DIRECTOR shall report to and be under the immediate supervision of the Chancellor. DIRECTOR agrees that the failure to discharge



any of these duties constitutes a breach of this Agreement that would allow ECU to discharge DIRECTOR for cause pursuant to section XI of this Agreement.

- C. If DIRECTOR is found to have committed a major or willful violation or multiple secondary or minor violations of NCAA rules or regulations, whether while



employed by ECU or during prior employment at another NCAA member institution, DIRECTOR shall be subject to disciplinary action as set forth in NCAA enforcement procedures and/or applicable ECU policies, regulations or rules. Such disciplinary action may include termination for cause in accordance with section XI of this Agreement. In the event that any future or amended NCAA or Conference rule, regulation, bylaw or constitutional provision should render ineffectual this Section II.C. as a basis for protecting the institutional integrity of UNIVERSITY, then DIRECTOR and ECU will, to the extent possible, engage in good faith negotiations to revise this Section II.C. or to substitute an alternative provision that would allow for a materially similar duty to be imposed upon the DIRECTOR with materially similar consequences for failure to perform said duty while preserving for ECU as much of the bargained for institutional benefit as reasonably possible.

### **III. ANNUAL SALARY**

The Annual Base Salary for the position of DIRECTOR is Three Hundred Sixty-five Thousand Dollars (\$365,000.00) from April 30, 2013 to and including June 30, 2017 (with any salary increase that may have been provided to DIRECTOR by ECU in the ordinary course of business prior to June 23, 2017), and shall be Four Hundred Thirty-five Thousand Dollars (\$435,000) from July 1, 2017 through the term of this Agreement, based on a twelve (12) month employment period. The salary will be paid annually in twenty-four (24) semi-monthly installments with the first installment paid no later than May 15, 2013. The Chancellor may make determinations on salary increases and any additional compensation regarding performance bonuses (in addition to those detailed in Section IV.D) during the annual base salary review period, provided that said increase shall be subject to approval by UNIVERSITY's Board of Trustees to the extent required by applicable policy.

### **IV. BENEFITS AND OTHER NON-SALARY COMPENSATION**

- A. The position of Director of Athletics is classified as an SAAO Tier II position at ECU. DIRECTOR shall receive all employee-related benefits which are normally available to other twelve-month SAAO Tier II employees. DIRECTOR acknowledges that benefits provided by ECU are subject to change from time to time by action of the North Carolina General Assembly, The University of North

24 annual leave days per year.

B. Subject to the availability of non-State appropriated funds in the Athletics Department budget and contingent upon a satisfactory performance review of the DIRECTOR by the Chancellor, which satisfactory performance review shall not be unreasonably withheld, DIRECTOR shall be entitled to receive additional non-salary compensation from ECU in the form of the following stated bonuses for increased responsibilities provided that all varsity sports are in compliance with all NCAA, Conference and ECU policies, regulations, bylaws and constitutional provisions and that there are no pending or active NCAA or Conference investigations of major or serious violations involving conduct of which the DIRECTOR knew or should have known, and should (and could) have prevented with reasonable diligence. In the event there are any such investigations, and the same fail to result in a finding by the Chancellor or such person as the Chancellor may designate to carry out such investigation, of (i) either misconduct, negligence or failure by the DIRECTOR to supervise of such significance as to reasonably cause the Chancellor to issue the DIRECTOR a performance review or evaluation concluding his performance is less than satisfactory and (ii) a related violation of any NCAA constitutional provision, bylaw, rule or regulation, within one (1) year following the commencement of the investigation, any such bonus which would have been otherwise due and payable shall immediately then become due and payable if DIRECTOR has cooperated throughout the investigative process. Notwithstanding anything to the contrary contained herein, the parties agree that the maximum amount payable to DIRECTOR pursuant to the bonuses detailed in Section IV.B.(1) through (6) (that is, excluding the First Longevity Bonus, Second Longevity Bonus, and Retention Bonus) in a particular contract year shall be the sum of One Hundred Thousand Dollars (\$100,000).

- (1) Football - eligible for the one (1) highest, single bonus amount detailed below in each football season (ties would be decided by the Conference tie breakers):
  - a. \$50,000 in any contract year in which the Football team plays in the BCS national championship or plays in the finals of a subsequent football playoff system; or
  - b. \$25,000 in any contract year in which the Football team plays: (i) for the NCAA national championship; (ii) in a BCS Bowl Game; or (iii) in the semi-finals of a subsequent college football playoff system; or
  - c. \$17,500 in any contract year in which the Football team wins the Conference championship; or

- d. \$5,000 in any contract year in which the Football team plays in the

Conference championship game; or

- e. \$10,000 in any contract year in which the Football team participates in a postseason bowl game.

These bonuses are not cumulative. Any amount earned will be paid within sixty (60) days following the date of the bowl game.

- (2) Men's Basketball - eligible for the one (1) highest, single bonus amount detailed below in each men's basketball season:

- a. \$50,000 in any contract year in which the Men's Basketball team is named NCAA national champions; or
- b. \$25,000 in any contract year in which the Men's Basketball team participates in the Final Four of the NCAA post-season tournament; or
- c. \$15,000 in any contract year in which the Men's Basketball team wins the Conference regular season championship; or
- d. \$10,000 in any contract year in which the Men's Basketball team wins the Conference tournament championship; or
- e. \$7,500 in any contract year in which the Men's Basketball team participates in the NCAA post-season tournament; or
- f. \$7,500 in any contract year in which the Men's Basketball team wins one (1) or more games in the NCAA Tournament; or
- g. \$10,000 in any contract year in which the Men's Basketball Team reaches the "Sweet 16" of the NCAA Tournament.

These bonuses are not cumulative. Any amount earned will be paid within sixty (60) days following the last game played by the team in the NCAA post-season basketball tournament or season, whichever is later.

- (3) Women's Basketball - eligible for the one (1) highest, single bonus amount detailed below in each women's basketball season:

- a. \$25,000 in any contract year in which the Women's Basketball

team is named NCAA national champions; or

- b. \$17,500 in any contract year in which the Women's Basketball team participates in the Final Four of the NCAA post-season tournament; or
- c. \$10,000 in any contract year in which the Women's Basketball team wins the Conference regular season championship; or
- d. \$7,500 in any contract year in which the Women's Basketball team wins the Conference tournament championship; or
- e. \$5,000 in any contract year in which the Women's Basketball team participates in the NCAA post-season; or
- f. \$5,000 in any contract year in which the Women's Basketball team wins one (1) or more games in the NCAA Tournament; or
- g. \$7,500 in any contract year in which the Women's Basketball Team reaches the "Sweet 16" of the NCAA Tournament.

These bonuses are not cumulative. Any amount earned will be paid within sixty (60) days following the last game played by the team in the NCAA post-season basketball tournament or season, whichever is later.

- (4) Other Varsity Sports Teams ("Other Varsity Sports" being all of ECU's varsity sports excluding Football, Men's Basketball and Women's Basketball) eligible for the following bonuses:
  - a. For each team included within Other Varsity Sports, eligible for the one (1) highest, single bonus amount detailed below in each season for each respective sport:
    - i. \$2,000 in any contract year for each varsity sports team or individual that wins a Conference regular season or tournament championship; or
    - ii. \$1,000 in any contract year for each varsity sports team that participates in post-season NCAA competition; or

individual that wins an NCAA championship.

- b. In addition to eligibility for the bonuses listed above for team performance in Other Varsity Sports, DIRECTOR is eligible for a bonus of \$25,000 in any contract year that the varsity baseball team reaches the final eight in the NCAA national playoff tournament (the "College World Series").

These bonuses for Other Varsity Sports are not cumulative per team. Any amount earned will be paid within sixty (60) days following the last game/match/meet played by the team in the NCAA post-season competition or season, whichever is later.

- (5) In addition, the University shall pay DIRECTOR \$1,000 per contract year for each varsity sports team which is in the upper 50% of the Conference Academic Progress Rate ("APR") public university rankings, based on a rolling four (4) year average. The maximum bonus potential to earn in any contract year for APR shall be \$16,000. Any amount earned will be paid within sixty (60) days of when the APR is reported publicly.
- (6) Federal graduation rate bonus eligibility: In any contract year in which the scholarship student athletes' graduation rate meets or exceeds that of the undergraduate student population, a bonus of \$7,500. Any amount earned will be paid within sixty (60) days of when the federal graduation rate is reported publicly.
- (7) At the conclusion of the fifth year of DIRECTOR's employment with ECU, if he has been employed by ECU in the position of DIRECTOR for a period of five (5) consecutive years during the period ending April 30, 2018, then ECU shall pay him a bonus of One Hundred Forty Thousand Dollars (\$140,000) (the "First Longevity Bonus"); and if DIRECTOR shall be employed by ECU in the position of DIRECTOR for an additional five (5) years for a total of ten (10) consecutive years during the period ending April 30, 2023, then ECU shall pay him a second bonus of One Hundred Sixty Thousand Dollars (\$160,000) (the "Second Longevity Bonus"). Any amount earned will be paid within sixty (60) days of the fifth or tenth anniversary, as applicable, of his employment with ECU.
  - a. Notwithstanding anything to the contrary contained herein, in the event the University terminates this Agreement without Cause (as defined below) between and including April 30, 2017 and April 30, 2018 or in the event DIRECTOR terminates this Agreement pursuant to Section XIV on or after April 30, 2017, then the University shall be required to pay a pro-rata portion of the First

said bonus are met, based on the total number of weeks that DIRECTOR was employed by ECU in said position as compared to the total number of weeks in the Term, had it naturally expired.

- b. Notwithstanding anything to the contrary contained herein, in the event the University terminates this Agreement without Cause (as defined below) between and including April 30, 2022 and April 30, 2023 or in the event DIRECTOR terminates this Agreement pursuant to Section XIV on or after April 30, 2022, then the University shall be required to pay a pro-rata portion of the Second Longevity Bonus if all other criteria for DIRECTOR's receipt of said bonus are met, based on the total number of weeks that DIRECTOR was employed by ECU in said position as compared to the total number of weeks in the Term, had it naturally expired.
- (8) The parties agree that the Director will be provided a one-time payment (the "Retention Bonus") in the amount of Twenty-five Thousand Dollars (\$25,000). The appointment must have been renewed and DIRECTOR must be continuously employed as DIRECTOR from the effective date of April 30, 2013 through June 30, 2017 in order to receive this one-time payment. If for any reason, DIRECTOR's service as DIRECTOR is not continuous during the relevant periods described herein, DIRECTOR will not be eligible for any amount pursuant to this paragraph. DIRECTOR shall be paid this amount no later than thirty (30) days from the execution of this Agreement.

The parties understand and agree that the right to any bonus described above in this Section IV.B. of this Agreement vests when any such bonus is earned or achieved and if the DIRECTOR meets the eligibility requirements stated above, not when any such bonus is paid. Upon the termination of this Agreement for any reason or mutually agreed reassignment of DIRECTOR, ECU shall be obligated to pay any bonus for which DIRECTOR is eligible as stated above earned or achieved as of the effective date of termination or reassignment, but not yet paid. In no event shall any bonus payments made under this section be considered part of Annual Base Salary. In the event that any future or amended state or federal law, rule or regulation, or NCAA or Conference rule or regulation should a) prohibit the payment of any bonus listed herein; b) render any bonus illegal or ineffectual; or c) subject ECU to a penalty or assessment or violation of law if such bonus were to be paid, ECU will, to the extent possible, revise such bonus or substitute an alternative incentive payment that would allow for a similar economic benefit to be provided to the DIRECTOR while preserving for ECU as much of the bargained for institutional benefit as reasonably possible.

- C. ECU shall pay the DIRECTOR supplemental compensation for each contract year of this Agreement (“Supplemental Pay”) in consideration of the duties set forth in Section II(A)(19) above. The Supplemental Pay will be paid annually in twenty-four (24) semi-monthly installments beginning upon the execution of this Amendment in the following annual amounts for the years indicated for the period beginning May 1 and ending on April 30 of the following calendar year:

May 1, 2013 to April 30, 2019:	\$50,000.00 per year;
May 1, 2019 to April 30, 2020:	\$60,000.00 per year;
May 1, 2020 to April 30, 2021:	\$70,000.00 per year;
May 1, 2021 to April 30, 2022:	\$80,000.00 per year;
May 1, 2022 to April 30, 2023:	\$90,000.00 per year.

In no event shall any Supplemental Pay under this section be considered part of the Annual Base Salary herein.

- D. ECU shall make arrangements for and provide one (1) courtesy or leased vehicle for the DIRECTOR to use, contingent upon and while performing his duties under during the Term of this Agreement. ECU shall be responsible for maintaining collision and comprehensive liability insurance on the vehicle. Alternatively, ECU may provide an annual automobile allowance in the amount of \$7,700, which amount may be adjusted annually consistent with UNIVERSITY policy. DIRECTOR shall be responsible for providing maintenance on any vehicle.

#### **V. OUTSIDE COMPENSATION**

- A. DIRECTOR may earn other compensation from sources outside of ECU while employed by ECU only with prior written approval by the Chancellor (not to be unreasonably withheld). Any outside compensation is subject to compliance with the “Policy on External Professional Activities for Pay” of the UNC Board of Governors and ECU’s “Policy on Conflicts of Interest and Commitment and External Activities of Faculty and Other Professional Staff,” which is herein incorporated by reference, and is subject to all other relevant State and Federal policies and laws concerning conflict of interest. Such activities are independent of DIRECTOR’s employment with ECU and ECU shall have no responsibility for any claims arising therefrom. Activities for outside compensation shall include, but not be limited to, engaging in any radio, television, motion picture, Internet, stage, writing or any similar activity, personal appearances, commercial endorsements and sport camps. Subject to specific reporting requirements established by ECU, no outside activities will be allowed without having on file with ECU, a signed approval of the “Notice of Intent to Engage in External Professional Activities for Pay” prior to engaging in those activities, which approval shall not be unreasonably withheld.

- B. In accordance with ECU policy and NCAA Bylaw 11.2.2, which are

incorporated herein by reference, DIRECTOR shall report to the Chancellor annually on July 1 all athletically-related income from sources outside ECU, including but not limited to income from sports camps and clinics, television and radio programs, commercial endorsements, consulting agreements and all other athletically-related income from whatever outside source. DIRECTOR shall ensure that, upon request, ECU has reasonable and prompt access to all records of DIRECTOR to verify this report.

- C. DIRECTOR agrees that ECU may use, without payment of additional compensation to DIRECTOR, DIRECTOR's name, picture, likeness and voice in connection with any such programs and endorsements that promote ECU. This provision shall survive expiration of this Agreement.

#### **VI. EXPENSES**

DIRECTOR will be entitled to receive an annual expense allowance in non-State funds from the Department of Athletics of \$22,500 per contract year (pro-rated for any partial contract year) to be used for entertainment and other appropriate purposes to advance the UNIVERSITY's athletics programs. Advancement of the UNIVERSITY's athletics programs is understood to include, but not be limited to, club membership that may be used to advance the purposes of the UNIVERSITY and travel expenses for the spouse of the DIRECTOR for Athletic Department and UNIVERSITY purposes. All appropriate State and Federal taxes will be withheld. This allowance may be adjusted for inflationary and other reasons during the term of this Agreement at the sole discretion of the Chancellor. Use of these funds shall always be within NCAA, Conference, and UNIVERSITY regulations, rules and policies. The parties agree that said amount detailed in this Section VI is for the purpose of advancing the UNIVERSITY's athletics programs.

#### **VII. TAXES**

DIRECTOR acknowledges that, in addition to the salary provided for in this Agreement, certain benefits and other non-salary compensation he receives incident to his employment relationship with ECU may give rise to taxable income. DIRECTOR agrees to be responsible for the payment of any taxes (including federal, state and local taxes) due on such income. DIRECTOR also understands that ECU shall withhold taxes on amounts paid or due to DIRECTOR and the value of benefits and other non-salary compensation provided to DIRECTOR, to the extent required by applicable law and regulation.



All materials or articles of information including, without limitation, personnel records, recruiting records, team information, films, statistics or any other material or data furnished to DIRECTOR by ECU or developed by DIRECTOR on behalf of ECU or at ECU's direction or for ECU's use, or otherwise in connection with DIRECTOR's employment hereunder, are and shall remain the sole property of ECU. If ECU requests access or the return of such materials at any time during or after the termination of DIRECTOR's employment, DIRECTOR shall immediately deliver same to ECU.

#### **IX. ATHLETICS DIRECTOR NOT SUBJECT TO REASSIGNMENT**

The UNIVERSITY shall not assign DIRECTOR to any other position aside from its Director of Athletics without the written consent of DIRECTOR. Throughout the term of this Agreement, DIRECTOR shall use his best full-time energies and abilities for the exclusive benefit of ECU.

#### **X. AUTOMATIC TERMINATION UPON DEATH OR DISABILITY OF DIRECTOR**

- A. This Agreement shall terminate automatically upon the death of DIRECTOR. If this Agreement is terminated pursuant to this section because of death, the DIRECTOR's Annual Base Salary and all other benefits shall terminate as of the end of the calendar month in which death occurs, except that DIRECTOR's personal representative or other designated beneficiary shall be paid any bonuses earned or achieved under section IV.D. prior to death, any supplemental compensation earned under section IV.E. on a pro-rata basis prior (through the end of the calendar month in which death occurs), and all such death benefits, if any, as may be contained in any benefit plan and due to DIRECTOR as an EPA non-faculty employee.
- B. This Agreement shall terminate automatically upon the permanent disability of DIRECTOR. For purposes of this provision, DIRECTOR shall be deemed permanently disabled if, due to a mental or physical impairment, DIRECTOR is unable to perform the essential functions of the job with or without reasonable accommodation for a period of ninety (90) consecutive days. If this Agreement is terminated pursuant to this section because of permanent disability, ECU's sole obligation shall be to pay that portion of the Annual Base Salary as set forth in section III due or earned to DIRECTOR as of the date of termination, disability benefits to which DIRECTOR may be entitled to under any disability program in which DIRECTOR is enrolled through ECU, any bonuses earned or achieved and for which DIRECTOR meets the eligibility requirements under section IV.D. prior

## **XI. TERMINATION BY ECU FOR CAUSE**

- A. This Agreement may be terminated by ECU for cause. "Cause" shall be defined as the following:
- (1) Failure to carry out the duties of DIRECTOR as defined in section II of this Agreement [DUTIES] and failure to cure same within thirty (30) calendar days of receiving written notice of such failure from ECU;
  - (2) A major or willful violation or multiple minor or secondary violations of an NCAA regulation or bylaw or a Conference regulation or bylaw by DIRECTOR, whether while employed by ECU or during prior employment at another NCAA member institution, or knowing participation by DIRECTOR in a violation of an NCAA regulation or bylaw or a Conference regulation or bylaw by an assistant/associate DIRECTOR or coach or other staff member of which DIRECTOR had reason to know, or should have known through the exercise of reasonable diligence, or which DIRECTOR condoned;
  - (3) Conviction of, or a guilty plea, including an Alford Plea, to (i) a felony or (ii) a criminal offense which constitutes fraud, dishonesty or moral turpitude;
  - (4) Misconduct of the DIRECTOR, or misconduct of any assistant or associate Athletic Director, or of a coach or of his staff of which the DIRECTOR knew, had reason to know or should have known through the exercise of reasonable diligence, or which DIRECTOR condoned, of such a nature, as reasonably determined in the discretion of ECU that would tend to bring disrespect, contempt or ridicule upon ECU, or which brings discredit to ECU, or which harms ECU's reputation, or which reasonably brings into question the integrity of the DIRECTOR or that, as determined in the sole discretion of the Chancellor, would render DIRECTOR unfit to serve in the position of Director of Athletics;
  - (5) Prolonged absence from duty without the consent of the Chancellor;
  - (6) Failure by DIRECTOR to use reasonable best efforts to ensure that academically qualified student athletes are recruited and that student athletes are making adequate progress in a defined degree program;
  - (7) Refusal of DIRECTOR to carry out reasonable directives from the Chancellor (provided DIRECTOR is first given written notice thereof and a reasonable opportunity to cure [usually presumed to be a period of at least five {5} business days, but which may be shorter if circumstances

communicated to DIRECTOR]); or

- (8) Any of those causes for discharge specified in the employment policies for SAAO Tier II employees of the University of North Carolina or ECU, as adopted and revised from time to time.
- B. In the event of a termination under this section, ECU's sole obligation to DIRECTOR shall be to pay DIRECTOR: that portion of the Annual Base Salary as set forth in section III due to DIRECTOR on a pro-rata basis prior to the date of termination; any bonuses earned or achieved for which DIRECTOR is eligible under section IV.D. prior to such termination; and, any supplemental compensation earned under section IV.E. on a pro-rata basis prior to the date of termination. In the event ECU exercises its right to terminate the Agreement with Cause, ECU shall not be obligated to pay DIRECTOR any other compensation or benefits described in the Agreement, including but not limited to any loss of business opportunities or loss of other compensation, income, benefits or perquisites from any sources, that might occur as a result of such termination.
  - C. Any process to terminate DIRECTOR for Cause shall be conducted in compliance with all current, relevant UNIVERSITY policies and regulations.

## **XII. TERMINATION BY ECU WITHOUT CAUSE**

This Agreement may be terminated by ECU at any time without Cause.

- A. In the event ECU exercises its right to terminate this Agreement without Cause, ECU's sole financial obligation shall be limited to paying DIRECTOR the remaining and unpaid amount of Annual Base Salary that would have been due and payable to him under Section III of this Agreement had DIRECTOR remained employed by UNIVERSITY for the entire Term of the Agreement (had it naturally expired); if applicable, any bonuses earned or achieved and unpaid for which DIRECTOR is eligible under Section IV.D. of the Agreement prior to the effective date of termination; and any Supplemental Pay earned and unpaid under section IV.E. of the Agreement on a pro-rata basis, up to the effective date of the termination. In the event ECU exercises its right to terminate the Agreement without Cause, ECU shall not be obligated to pay DIRECTOR any other compensation described in the Agreement or be responsible for consequential damages, including but not limited to any loss of business opportunities or loss of other income, benefits, or perquisites from any sources, that might occur as a result of such termination. Any bonuses and Supplemental Pay earned or achieved and unpaid shall be paid within sixty (60) days of the effective date of the termination and payment of the remaining unpaid amount of Annual Base Salary determined to be owed DIRECTOR under this section XII shall occur over the period that would have remained in the Term of the Agreement had it expired naturally, in twenty-four

been paid in full.

- B. DIRECTOR acknowledges his obligation to minimize the payments due to him under section XII(A) and agrees to make every reasonable effort to obtain a New Position (as defined here below) as long as ECU has the obligation to make payments under section XII(A). If the DIRECTOR obtains new athletics-related employment from a college, university, collegiate athletic conference, professional sports team, professional sports league, or sports broadcasting entity (or affiliate) (all, including but not limited to universities, collectively referred to as "Athletically Related Entities") or a firm providing consulting services to any such Athletically Related Entities (any such employment with any such firm or Athletically Related Entities referred to as a "New Position") during the applicable time period that ECU is making payments under Section XIII(A), then DIRECTOR shall promptly, upon acceptance of a New Position, notify the Chancellor in writing of such employment and the total compensation to be paid as well as any to be earned but not paid to DIRECTOR for the New Position (during the applicable time period). In addition, DIRECTOR agrees to provide ECU with a copy of his W-2 form (from said New Position) for each calendar year as long as ECU has the obligation to make payments under section XII.
- C. If DIRECTOR's total compensation in the New Position (including compensation paid and any that is earned but not paid during the applicable time period) exceeds that which DIRECTOR would have been paid at ECU as set forth in section III, then ECU's financial obligations under section XII(A) shall cease. In addition, UNIVERSITY's financial obligations to DIRECTOR under this section XII other than those for payment of earned bonuses and Supplemental Pay shall be reduced by the amount of any compensation earned by DIRECTOR from any source other than UNIVERSITY, from the date his employment with UNIVERSITY is terminated through the period that would have remained in the Term of the Agreement, had it expired naturally.
- D. DIRECTOR acknowledges and agrees that ECU's sole financial obligation in the event that DIRECTOR is terminated without Cause is governed by section XII(A) of this Agreement, and any prior agreements or promises in regard to ECU's payments to DIRECTOR due to termination without cause, if any, are null and void.

### **XIII. TERMINATION BY DIRECTOR PRIOR TO EXPIRATION**

- A. DIRECTOR agrees that the promise to work for ECU for the entire Term of the Agreement is essential to ECU. The parties agree that the DIRECTOR has special, exceptional and unique knowledge, skill and ability as a DIRECTOR, which, in addition to the continuing acquisition of DIRECTOR experience at ECU, as well

the DIRECTOR's services unique. DIRECTOR therefore agrees, and hereby specifically promises, not to actively seek, negotiate for or accept a New Position, under any circumstances, without first informing in writing or obtaining written permission from the Chancellor.

- B. DIRECTOR acknowledges that accepting employment for a New Position during the applicable time period without first obtaining the written permission of the Chancellor constitutes a breach of this Agreement. In the event of such breach, then to the extent allowed by applicable law including but not limited to any requirement for approval by the Attorney General of North Carolina as the sole and exclusive remedy available to ECU, DIRECTOR shall pay ECU liquidated damages in lieu of any and all other legal remedies or equitable relief equal to the amount detailed below (the "Liquidated Damages Amount"). This is an Agreement for personal services. The parties recognize and agree that a termination of this Agreement by DIRECTOR prior to its natural expiration could cause ECU to lose its valuable investment in DIRECTOR's continued employment at ECU and could cause ECU additional damages beyond its lost investment, including but not limited to a possible adverse effect on the intercollegiate sports program. The parties further agree that it is difficult or impossible to determine with certainty the damages that may result from such termination by DIRECTOR and that the liquidated damages provisions of this paragraph are not to be construed as a penalty, but as an attempt by DIRECTOR and ECU to establish adequate and reasonable compensation to the University in the event DIRECTOR terminates this Agreement. In the event of a termination by DIRECTOR under this Section XIII.B., ECU's sole obligation to DIRECTOR shall be to pay DIRECTOR that portion of the Annual Base Salary as set forth in section III due to DIRECTOR on a pro-rata basis prior to the date of termination; any bonuses earned or achieved under section IV.D. prior to such termination; and any Additional Salary earned under section IV.E. on a pro-rata basis prior to the date of termination. The Liquidated Damages Amount that DIRECTOR must pay UNIVERSITY shall be calculated as follows:
- (1) In the event DIRECTOR terminates this Agreement pursuant to this Section XIII.B. on or before April 30, 2018, the Liquidated Damages Amount shall be Five Hundred Fifty Thousand Dollars (\$550,000);
  - (2) In the event DIRECTOR terminates this Agreement pursuant to this Section XIII.B. after April 30, 2018 but prior to April 30, 2019, the Liquidated Damages Amount shall be Four Hundred Thousand Dollars (\$400,000);
  - (3) In the event DIRECTOR terminates this Agreement pursuant to this Section XIII.B. on or after April 30, 2019 but prior to April 30, 2020, the Liquidated Damages Amount shall be Three Hundred Thousand Dollars (\$300,000);

XIII.B. on or after April 30, 2020 but prior to April 30, 2021, the Liquidated Damages Amount shall be Two Hundred Thousand Dollars (\$200,000);

- (5) In the event DIRECTOR terminates this Agreement pursuant to this Section XIII.B. on or after April 30, 2021 but prior to July 1, 2022, the Liquidated Damages Amount shall be One Hundred Thousand Dollars (\$100,000);
- (6) In the event DIRECTOR terminates this Agreement pursuant to this Section XIII.B. on or after July 1, 2022, the Liquidated Damages Amount shall be Zero Dollars (\$0).

DIRECTOR agrees to inform Chancellor in writing (email being deemed acceptable) in advance of any discussion regarding athletically-related employment by any potential employer other than ECU, to include identifying the potential employer.

ECU agrees not to unreasonably withhold permission for DIRECTOR to discuss another position, provided ECU retains the unrestrained authority and discretion to withhold its permission for DIRECTOR to accept other employment.

#### **XIV. TERMINATION BY DIRECTOR**

- A. Notwithstanding anything to the contrary contained herein and without limitation, the UNIVERSITY agrees that DIRECTOR may terminate this Agreement upon written notice to the UNIVERSITY (without penalty or any damages whatsoever; including without limitation, the Liquidated Damages Amount detailed above) in the event the UNIVERSITY materially breaches this Agreement and fails to cure such material breach within thirty (30) days of its receipt of written notice thereof from or on behalf of DIRECTOR.
- B. In addition, the UNIVERSITY agrees that DIRECTOR may terminate this Agreement nine (9) months after Cecil Staton is no longer employed as Chancellor of the University, provided that (i) the DIRECTOR must provide the UNIVERSITY written notice at least sixty (60) days in advance of the effective date of such termination of this Agreement; and (ii) such notice must be given within eighteen (18) months of the final day on which Cecil Staton serves in his role as Chancellor of the University. In the event of such termination by DIRECTOR, the Liquidated Damages Amount due pursuant to Section XIII.B. shall be reduced to Zero Dollars (\$0.00); no other penalties or damages arising from termination of this Agreement prior to the natural expiration of the Term shall be owed to the UNIVERSITY, whatsoever.

This Agreement may be terminated or amended at any time upon mutual written Agreement of all parties.

**XVI. COMPENSATION CONDITIONAL**

The payment of all forms of compensation set forth in this Contract is subject to the approval of the annual operating budget by the UNIVERSITY and The University of North Carolina Board of Governors and the sufficiency of appropriations or the availability of sufficient funds within the Athletic Department's budget to pay such compensation. In the event any such compensation is not so approved, then DIRECTOR shall be permitted to terminate this Agreement upon written notice to the UNIVERSITY, and in such an instance, shall not owe or be liable for any damages (liquidated or otherwise) arising from termination of this Agreement prior to the natural expiration of the Term.

**XVII. MERGER**

This Agreement constitutes the full and complete agreement of the parties. No prior or subsequent written or oral understandings or representations pertaining to the subject matter of this Agreement shall be binding upon the parties unless contained herein or set forth in the form of written amendment(s) to this Agreement, executed by both parties prior to becoming effective.

**XVIII. INTERPRETATION AND APPLICABLE LAW**

This Agreement is made under and shall be interpreted according to the laws of the State of North Carolina. Any rule to the effect that an agreement shall be construed against the party drafting shall have no application to this Agreement.

**XIX. NOTICES**

Any notice or other communication required under this Agreement shall be in writing and shall be deemed effective when personally delivered or sent by confirmed facsimile or five (5) days after being deposited in the United States mail, postage prepaid, registered or certified, addressed to the other party at its/his respective address or facsimile number set forth below, or such other address or facsimile number as may be given by such party in writing to the other, or with respect to DIRECTOR, to the address or facsimile of his attorney of record if DIRECTOR has provided such in writing to the Chancellor.

Chancellor  
105 Spilman Building  
East Carolina University  
Greenville NC 27858

C. Jettrey Compher

---

---

---

With a copy to:  
University Counsel and VC for Legal Affairs  
210 Spilman Building  
East Carolina University  
Greenville, NC 27858

With a copy to:  
The Sacks Group, PLLC  
5335 Wisconsin Avenue, NW  
Suite 720  
Washington, DC 20015  
Attn. Rand E. Sacks, Esq.

#### **XX. BENEFIT**

This Agreement, in accordance with its terms and conditions, shall inure to the benefit of and be binding upon ECU, its successors and assigns, and DIRECTOR, his heirs, executors, administrators and legal representatives.

#### **XXI. SEVERABILITY**

The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision hereof.

#### **XXII. SOLE AND ENTIRE AGREEMENT**

This instrument contains the entire Agreement of the parties and fully supersedes any and all prior offers, discussions, agreements or understandings between the parties hereto. The Agreement may not be changed or amended orally, but only by an Agreement in writing signed by the party against whom enforcement of any waiver, amendment, change, modification, extension or discharge is sought. The Agreement may be executed in multiple, identical original counterparts, each of which is an original, and all said counterparts form only one single Agreement.

#### **XXIII. APPROVAL BY BOARD OF TRUSTEES/BOARD OF GOVERNORS**

It is expressly understood and agreed by the parties that this Agreement and any subsequent amendment(s) is/are not effective until the terms of thereof are approved by ECU's Board of Trustees. The UNIVERSITY agrees to provide prompt written notice to DIRECTOR of the Board's decision.



DIRECTOR acknowledges and understands that upon execution of this Agreement, the payment amounts and other terms and conditions contained herein shall not be confidential and this Agreement shall be considered a public record within the meaning of the North Carolina Public Records Act, N.C. Gen. Stat. § 132-1 *et seq.*

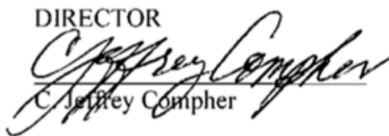
**XXV. FULL AND CAREFUL CONSIDERATION**

Each party acknowledges that it/he has been given the opportunity to fully and carefully consider this Agreement and all of its provisions and to review this Agreement with legal counsel of its/his own choosing before signing it.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

EAST CAROLINA UNIVERSITY

By:   
Cecil P. Staton  
Chancellor

DIRECTOR  
  
C. Jeffrey Compher

As required under UNC Policy Manual Section 1100.3, all terms and conditions of the foregoing agreement have been approved as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the Board of Trustees of East Carolina University, as attested by its duly elected officers by affixing their signatures hereto.

By: \_\_\_\_\_ Date signed \_\_\_\_\_  
Steven Jones, Chairman, Board of Trustees

Attested to:

By: \_\_\_\_\_ Date signed \_\_\_\_\_  
C. Steve Duncan, Assistant Secretary to  
the Board of Trustees

# Pirates finish strong after rocky start to begin season 1-0

By [STEPHEN IGOE](#) - 12 hrs

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ECU freshman Brandon Suggs celebrates after a made basket against VMI in the season opener. (Photo: Savanna Elkins, 247Sports)

It was inevitable East Carolina's basketball team would have some up-and-down play given all the moving parts following an offseason full of roster turnover heading into the team's season opener on Tuesday night.

And while there was certainly some uneasy moments, the Pirates' raw athleticism and ability showed to those in attendance, and the duo of freshman point guard [Tristen Newton](#) and sophomore forward [Jayden Gardner](#) paced ECU to a season-opening 80-68 victory over Virginia Military Institute inside Williams Arena at Minges Coliseum.

Gardner, one of just two returning scholarship players from last year's team, was an All-AAC Rookie selection last season. He picked up right where he left off, pouring in a double-double with 28 points and 11 rebounds. Newton was the breakout star of the night. Making his first career appearance, Newton scored 20 points and had zero turnovers with four assists.

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The Pirates played without projected starters [Tremont Robinson](#) and [Tyrie Jackson](#) due to injury.

East Carolina won its 21st consecutive season opener with the triumph.

“I thought we had jitters like we expected, especially early in the game,” head coach [Joe Dooley](#) said. “I thought we were very sped up offensively, which a lot it is attributed to them with the switching man they played. We got a little discombobulated for a while offensively, turned it over and missed some layups. I thought our defense changed in the second half and I thought the freshmen guards did a good job in the second half keeping the ball in front of them and obviously Tristen made some really good plays. He didn’t turn it over in 30 minutes. And obviously Jayden had a good game.”

East Carolina trailed at halftime 38-36 before settling down in the second half. Dooley opted to go with a smaller lineup to combat VMI’s quickness. The Keydets netted six first-half 3-pointers, but only added three after halftime. ECU outscored VMI 44-30 in the second half.

#### ADVERTISEMENT

“The first half, we were just getting a feel,” Gardner said. “I had jitters. We had jitters. The second half, we locked up, tightened up on defense, and executed on offense.”

The Pirates played 10 of their 11 healthy scholarship players. Junior college transfer [Edra Luster](#) was dressed but did not participate. Robinson and Jackson are considered week-to-week with their injuries. Newton led all players with 34 minutes.

“I came in pretty confident,” Newton said. “My teammates have been telling me I’m built for this and I’m ready, so I’m pretty prepared.”



Tristen Newton (Photo: Savanna Elkins, 247Sports)

Gardner played 33 minutes and returned to the game late after experiencing some cramping late in the second half.

Freshman [Brandon Suggs](#) started and scored 12 points, going 4-for-4 from the field. Suggs chipped in four assists and four rebounds. [Bitumba Baruti](#) came off the bench to play 29 minutes, scoring seven points and adding nine rebounds.

[JJ Miles](#) started but did not score, going 0-for-3 from the field. Dooley said he struggled with cramps for much of the night.

#### ADVERTISEMENT

VMI got a game-high 23 points from guard Greg Parham, who made 9-of-21 field goals and 3-of-7 from 3-point range. But the Keydets struggled to execute for much of the second half as the Pirates went smaller.

“We got them off the line a little bit and contested them,” Dooley said, “and I thought we wore them down a little bit.”

ECU shot 53.4 percent (31-of-58) as a team from the field and 33.3 percent (4-of-12) from 3-point range.

A high-scoring first half included VMI hitting 6-of-11 3-pointers to take a 38-36 lead into the locker room.

Facing a 25-19 deficit, the Keydets went on an 11-0 run to take a 30-25 lead. VMI led the rest of the half, getting 14 first-half points from Greg Parham.

Newton scored 14 points and Gardner netted 10 in the first half.

The Pirates return to action Friday night at Navy at 8:30 p.m.

14

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Gardner still 'beast mode' in Pirate win

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## ECU officials: Athletic finances are solid

By Nathan Summers  
The Daily Reflector

Sunday, March 18, 2018

East Carolina officials defended the tenure of Athletics Director Jeff Compher and disputed statements about the financial health of the athletics program reported in a Daily Reflector commentary published last week in the sports section.

The department's finances remain healthy in the wake of Compher's five-year term, ECU Chief Communications Officer Tom Eppes said during a meeting with Reflector staff. He said ECU athletics increased annual revenues from \$33.8 million to \$40.7 million under Compher, who accepted a buyout to leave the school March 9 amid criticism from the fan base and successive losing seasons on the football field.

Speaking alongside retiring Vice Chancellor for Administration and Finance Rick Niswander and Pirate Club Executive Director Phillip Wood, Eppes also said a deficit between revenues and spending reported in the March 11 commentary was inaccurate. He said the newspaper relied on faulty sources and failed to confirm figures with the university.

According to numbers provided Thursday by Niswander, the department enjoyed a \$2,157,786 surplus when Compher came to the university, not the "estimated \$3.5 million" reported by "multiple Pirate Club members" to the Reflector. The current estimated total deficit is about \$3.3 million, not nearly \$7 million as reported in the commentary.

Eppes said the deficit is largely the result of \$3.4 million in costs associated with leaving Conference USA and joining the American Athletic Conference. An NCAA rules change and scholarships supported by athletic funds and the addition of women's lacrosse also contributed to the tune of about \$4 million, Eppes said.

Revenue increases resulting from several contract upgrades, including a \$14.3 million deal with IMG Marketing and a \$16.5 million agreement with addidas, will have a "significant positive effect on debt and the overall budget" once conference entry payments have been completed in 2019, Eppes said.

"The last payment will be made next year," he said. "At that point, all the money is coming in without all the expense and things are going to right themselves pretty quickly."

The ECU officials also responded to concerns about the sale of reconfigured seating to help pay for a \$55 million football stadium renovation. Sales have been strong, Eppes said. Fans have purchased 245 of the 1,000 club seats, all 22 loge boxes and all 18 suites, and three of five Founders Suites.

The Reflector's commentary also incorrectly reported the interest rate ECU is paying on the \$55 million line of credit it secured from BB&T for the stadium project, Eppes said. The rate is approximately 2 percent, not 5 percent, he said.

"The funding model for the project takes into consideration the interest that will need to be paid," he said. "Still, the model conservatively projects a net revenue of \$582,563 in 2019."



ECU's Board of Trustees announce the decision to release athletic director Jeff Compher on March 9, 2018. (Molly Mathis/The Daily Reflector)

10  
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"The guy accomplished a heck of a lot," Eppes said of Compher, denying anonymous complaints reported by the Reflector that Compher spent freely on dinners for Pirate Club donors, saying the average meal for a donor was \$75, an average he said was "not extravagant."

Eppes went on to indicate the average donation from the people eating those meals was \$19,989 annually. The university's fundraising efforts under Compher also totaled nearly \$80 million in five years, Eppes said.

The officials also questioned the Reflector's reporting of cost-cutting measures as evidence of what the university was facing because of an "expensive five years" under Compher.

Eppes said the school was exercising "good business sense" when it cut back on media meals and placed controls on snacks provided to football players. Free access to player nutritional supplements meant more was taken than one person could consume, he said.

"Some people may grab some, who knows, to take to some buddies to share the food or the refreshments. Who knows what happens to it?" Eppes said. "If you want manage your money better and manage your supplies better, then maybe you give it out individually and just don't put stuff out on the table that people are maybe going to take more than they needed."

He also said the department is not leaving media relations positions vacant. A post left open by the departure of a staff member in December likely will be filled this summer, he said.

The officials said the department's finances are especially impressive considering a North Carolina law that prohibits universities from funding athletics through tuition and other appropriations — a law that means ECU receives about \$17 million less in direct institutional support than most other American Athletic Conference schools.

"The amount of spending per athlete is below average in the conference, so we're not spending at a crazy level," Eppes said of the program under Compher, who will remain in place until May under the \$1.3 million buyout agreement finalized last week. "So to characterize Jeff's work as being frivolous with money is a mischaracterization and I think the data is there to support it."

Contact Nathan Summers at [nsummers@reflector.com](mailto:nsummers@reflector.com), 252-329-9595 and follow @NateSumm99 on Twitter.

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## ECU women strive for steals

November 06, 2019

East Carolina first-year women's basketball coach Kim McNeill admitted during the preseason that this ECU roster is not blessed with many great shot-blockers or 3-point shooters, but she wants steals.

McNeill's teams at Hartford the last three seasons thrived on defense, which she wants to...



## Gardner still 'beast mode' in Pirate win

November 05, 2019

Don't forget about Jayden Gardner.

With most of the offseason attention for the East Carolina basketball team centered around 11 signees in hopes of an ECU hoops revitalization, especially three new 7-footers and former Washington Huskies forward Bitumba Baruti, the Pirates beat Virginia...



## Breaking down the RPO

November 05, 2019

It was predetermined that the East Carolina football team wanted to be aggressive last Saturday against No. 17 Cincinnati, but after the ball was kicked off, a major force behind the Pirates' offensive outburst was correct execution by quarterback Holton Ahlers and others on run-pass options plays...



## Pirates set for opener in Minges

November 05, 2019

It's brighter in Minges Coliseum and East Carolina's basketball team is hoping to match the upgrade to its playing surface when the Pirates begin a new season tonight against Virginia Military Institute.

Tip-off in Minges, which underwent brightening, new branding and logo upgrades during the same...



## Roundup: Worrell shines; Volleyball makes more history

November 04, 2019

A big weekend by Bryson Worrell lifted his Gold team to a victory over Purple in the East Carolina baseball fall World Series.

Worrell, a projected starting outfielder entering his junior season, hit two home runs during the series. The second was Sunday during a 6-0 victory for the Gold. He was 1-...



## AAC: Now boasting four ranked teams

November 04, 2019

Add Navy to the list of American Athletic Conference ranked football teams.

The Midshipmen are 7-1 after routing Connecticut 56-10 on Saturday, and they are No. 25 in this week's AP Top 25 rankings. Navy joined thriving AAC clubs Cincinnati (No. 17), Memphis (19) and SMU (23). The American also is...



## Reshuffled line helps offense thrive

November 04, 2019

Record-breaking skill players grabbed the immediate attention for East Carolina's football team late Saturday night after a 46-43 near-upset of No. 17 Cincinnati at Dowdy-Ficklen Stadium.

Freshman receiver C.J. Johnson exploded for an American Athletic Conference-record of 283 receiving yards....



## WOODWARD: Pirates played their best game

November 04, 2019

Performances in athletics can be great, they can be memorable and they can be record-breaking, but that doesn't always equal a win.

Sports outcomes can be cruel sometimes, which is what happened Saturday night when East Carolina played its best football game of the season — by far...



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@ECUChancellor

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**The Daily Reflector**  
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## BATTLE FOR N.C.: Wake back in first

November 04, 2019

Somehow, comparing resumes of Appalachian State to Wake Forest remains difficult in early November, but major clarity should come with one more weekend of games. App. State made it difficult when it lost in Boone on Halloween night, 24-21, to rival Georgia Southern for another reminder that the...



## ECU baseball: Fall takeaways

November 03, 2019

East Carolina baseball officially wrapped up its fall practices Sunday with the end of the Purple-Gold World Series.

Here are some takeaways from the fall:

1. Gavin Williams to the forefront: The talented and hard-throwing junior pitcher threw consistently in the mid- to high-90s. Notable...



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@HumansofGville

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## ECU still working to solve budget deficit

By [STEPHEN IGOE](#) - Sep 6, 2018

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(Photo: Greg Thompson/Icon Sportswire, Getty)

The ECU Board of Trustees held its September athletics and advancement committee meeting on Thursday inside the East Carolina Heart Institute at ECU, though the session was severely abbreviated due to delays from meetings earlier in the day.

Acting Chief Operating Officer Lee Workman, special athletics advisor to the chancellor Dave Hart, associate AD for internal operations J.J. McLamb and Pirate Club executive director Phillip Wood were all scheduled to speak to the committee. Instead,

a lengthy delay from the prior meeting forced the recommendation to look at the board of trustees [notes made available online for the latest information](#).

The updated numbers show ECU's financial struggles from an athletic standpoint continued over the 2018 fiscal year, leading to a running budget deficit of \$3,064,234 as of July 1. A shortfall in football season tickets combined with other lost revenue for the projected 2019 fiscal year has ECU scheduled for a net loss of another \$1,159,465 come June 30, 2019.



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But documents show athletics intends to receive a transfer of \$4,223,699 from what's labeled as the "Auxiliary/ITF (Institutional Trust Funds)" fund to make up the debt and get the balance back to even. The exact source of the auxiliary funds are currently unknown, though it will come from East Carolina University and it's within state laws. Unlike other states that are represented in the American Athletic Conference, a North Carolina state law does not allow state funds to be used for athletics.

While the transfer from the auxiliary fund is expected to take place at the end of the 2019 fiscal year, it could be lower or higher than the anticipated \$4,223,699, depending on how the Pirates' coming athletics year plays out. For example, if football experiences a turnaround moving forward under head coach [Scottie Montgomery](#), the potential increase in ticket revenue and other money streams from fan interest could lower the deficit's number rather significantly.

Workman and the Pirates' athletic department hope ECU fans don't give up on the football team after the season-opening loss to North Carolina A&T. The Pirates host rival North Carolina in a big in-state game this Saturday at 3:30.

"There are 12 games to a season and over the course of a football season, sometimes it's like a rollercoaster. You can get up and get down," Workman said. "The key is to not get too high and not get too low. It was unfortunate, disappointing, frustrating,

whatever words - for all of us - last weekend. But we've got another one coming this week and we've got to get excited, get ready and try to get a win this week."

## ADVERTISEMENT

The Pirates' athletic department has been operating in the red for the last handful of years. ECU had a budget deficit of nearly \$2.4 million at the end of the 2017 fiscal year. That deficit grew by more than \$600,000 to the \$3,064,234 mark referenced above at the end of the 2018 fiscal year (June 30). Declining football ticket sales due to three straight losing seasons has hurt the Pirates' revenue based on the usual steady flow of season ticket holders and concessions and merchandise at home games. The budget for football and all ECU sports was cut in 2018 as a result, but is now set to see an increase in 2019.

The football program's budget for the fiscal year 2018 was set at \$6,563,121. The Pirates ended up staying under with expenses at \$6,562,773. The Pirates' 2019 budget for football has been increased to \$6,657,252 (though the projected football revenue for 2019 is 5,400,000).

Men's basketball, which saw the new hire of [Joe Dooley](#), saw its budget increase from \$2,641,405 (2018) to \$2,852,481 (2019). Baseball also saw an increase from \$1,319,031 (2018) to \$1,416,321 (2019). The total overall budget for 2019 is set at \$39,121,935, an increase of \$521,589 compared to the 2018 fiscal year.

The increased expenses means the Pirates are putting more into their athletic programs, but they also likely hope to see more return on their investments in the long run.

“It’s going to be a combination of efforts to get our budget where we want it,” Workman said. “It’s going to be support from our fans through the Pirate Club. Ticket sales, that’s a part of it. Our institution, Chancellor (Cecil) Staton and what they can do from their perspective. And then there’s other avenues out there that we’re looking at and talking about to see what can be done.

**20**  
[COMMENTS](#)

“It’s a challenge we have in front of us, we all know it. I commend our athletics staff, our coaches and our student-athletes, what they’re doing during this time, while we’ve got to get football and basketball healthy, as we’ve talked about before.”

[Comments \(20\)](#)

## Pirates finish strong after rocky start to begin season 1-0

By [STEPHEN IGOE](#) - 12 hrs

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ECU freshman Brandon Suggs celebrates after a made basket against VMI in the season opener. (Photo: Savanna Elkins, 247Sports)

It was inevitable East Carolina's basketball team would have some up-and-down play given all the moving parts following an offseason full of roster turnover heading into the team's season opener on Tuesday night.

And while there was certainly some uneasy moments, the Pirates' raw athleticism and ability showed to those in attendance, and the duo of freshman point guard [Tristen Newton](#) and sophomore forward [Jayden Gardner](#) paced ECU to a season-opening 80-68 victory over Virginia Military Institute inside Williams Arena at Minges Coliseum.

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#### ADVERTISEMENT

The Pirates played without projected starters [Tremont Robinson](#) and [Tyrie Jackson](#) due to injury.

East Carolina won its 21st consecutive season opener with the triumph.

“I thought we had jitters like we expected, especially early in the game,” head coach [Joe Dooley](#) said. “I thought we were very sped up offensively, which a lot it is attributed to them with the switching man they played. We got a little discombobulated for a while offensively, turned it over and missed some layups. I thought our defense changed in the second half and I thought the freshmen guards did a good job in the second half keeping the ball in front of them and obviously Tristen made some really good plays. He didn’t turn it over in 30 minutes. And obviously Jayden had a good game.”

East Carolina trailed at halftime 38-36 before settling down in the second half. Dooley opted to go with a smaller lineup to combat VMI’s quickness. The Keydets netted six first-half 3-pointers, but only added three after halftime. ECU outscored VMI 44-30 in the second half.

#### ADVERTISEMENT

“The first half, we were just getting a feel,” Gardner said. “I had jitters. We had jitters. The second half, we locked up, tightened up on defense, and executed on offense.”

The Pirates played 10 of their 11 healthy scholarship players. Junior college transfer [Edra Luster](#) was dressed but did not participate. Robinson and Jackson are considered week-to-week with their injuries. Newton led all players with 34 minutes.

“I came in pretty confident,” Newton said. “My teammates have been telling me I’m built for this and I’m ready, so I’m pretty prepared.”



Tristen Newton (Photo: Savanna Elkins, 247Sports)

Gardner played 33 minutes and returned to the game late after experiencing some cramping late in the second half.

Freshman [Brandon Suggs](#) started and scored 12 points, going 4-for-4 from the field. Suggs chipped in four assists and four rebounds. [Bitumba Baruti](#) came off the bench to play 29 minutes, scoring seven points and adding nine rebounds.

[JJ Miles](#) started but did not score, going 0-for-3 from the field. Dooley said he struggled with cramps for much of the night.

#### ADVERTISEMENT

VMI got a game-high 23 points from guard Greg Parham, who made 9-of-21 field goals and 3-of-7 from 3-point range. But the Keydets struggled to execute for much of the second half as the Pirates went smaller.

“We got them off the line a little bit and contested them,” Dooley said, “and I thought we wore them down a little bit.”

ECU shot 53.4 percent (31-of-58) as a team from the field and 33.3 percent (4-of-12) from 3-point range.



A high-scoring first half included VMI hitting 6-of-11 3-pointers to take a 38-36 lead into the locker room.

Facing a 25-19 deficit, the Keydets went on an 11-0 run to take a 30-25 lead. VMI led the rest of the half, getting 14 first-half points from Greg Parham.

Newton scored 14 points and Gardner netted 10 in the first half.

The Pirates return to action Friday night at Navy at 8:30 p.m.

14

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# ECU Board of Trustees approve student fee increase



Posted: Thu 3:32 PM, Nov 01, 2018 | Updated: Fri 11:32 AM, Nov 02, 2018

**GREENVILLE, NC (WITN)** - A controversial fee increase to help bail out athletics at East Carolina University is one step closer to becoming a reality.

The Board of Trustees this morning unanimously okayed the \$66 student fee hike that will bring another \$1.1 million to athletics on Thursday.

Athletics will receive the bulk of the increase, \$50, while education and technology will see an \$8 hike, and student center operations will get \$8.

The net increase in student fees will be actually \$51 because a \$15 student recreation center debt service fee is going away.

Other proposed increases include a \$1,000 hike on dental school tuition, along with a 2.5% hike in both student housing and meal services, while a 2% increase in parking fees at the university.

The proposal now goes to the UNC Board of Governors for final approval.



Jacksonville Mayor Sammy Phillips wins re-election to fourth term as mayor

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Gardner still 'beast mode' in Pirate win

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## \$20 million going to athletics deficit, facilities

By **RONNIE WOODWARD**  
The Daily Reflector

Thursday, December 6, 2018

East Carolina University has designated \$20 million in university money to settle a deficit in its athletics budget and to make significant capital improvements to athletics facilities, officials said Wednesday.

The funds are available immediately, with one \$10 million transfer intended to nullify a deficit created in part by poor attendance and fees associated with joining the American Athletic Conference in 2014. The other \$10 million allocation is designated for facility improvements including a long-sought training table, which is a nutrition and dining facility that caters specifically to student-athletes.

ECU chief communications officer Tom Eppes said Wednesday the first \$10 million comes from a pool of \$149 million in non-state auxiliary funds to cover a deficit projected to be \$4,223,699 at the end of this fiscal year. What remains of the \$10 million will be available for potential future athletics debt.

The second \$10 million transfer comes from an ECU Physicians accrued fund balance worth \$95 million.

The revenue is generated through a variety of sources by every university department, Eppes said. Examples include student fees, money paid to rent university facilities and, in the case of ECU Physicians, money paid during patient visits to clinics.

ECU's decision to move the funds stems in part from the "deep dive" into athletics performed by Dave Hart, who has served as special athletics adviser to Chancellor Cecil Staton since March 15.

The Pirates have posted four straight losing seasons in football, which led to the dismissals of coaches Ruffin McNeill in 2015 and Scottie Montgomery last week. ECU hired James Madison University coach Mike Houston on Monday. ECU coaches in many sports have for years stated the need for a full athletics nutritional facility on campus.

"I think if there is anything that is clear, it is that everybody wants this team to be competitive, and they are not too happy when they are not," Eppes said of ECU football. "The university is clearly doing what needs to be done with the hiring and funding to get us where we need to be. A lot of (athletics programs at other schools) get state money and we are not able to use state money, so we are operating with far less money than they have, but we have a lot of the same needs.

"Things like the training table are things that Dave has said we have to do. That is to get the athletes as competitive as they can be, and also for recruiting because people are going to see that everywhere else they go."

The athletics department is not required to return money back to those funds, Eppes said.

He added that the even with the \$10 million transfer from ECU Physicians to athletics, its reserve fund is still "well within guidelines" set by the Government Finance Officers Association, which require having a balance of two months



1 of 2

East Carolina University Chancellor Cecil Staton looks on during a news conference Tuesday for new Pirate football coach Mike Houston.

8 Comments

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of revenue or two months of expenses, whichever is largest.

The transfer leaves \$46 million in cash and \$39 million in billings in the Physicians account, he said. Operational expenses at ECU Physicians for two months total \$35.2 million.

He also said similar transfers have been made in the past from other university accounts to support ECU Physicians when clinic revenues were not able to support operations or build reserves.

"It was a natural decision that if we needed to put some money in (athletics), that was the place to pull it from," Eppes said. "It is important to realize that this is all university money. ... Where we have money like this that can be used to serve the most pressing need at the time, ultimately the chancellor and senior leadership gets to make that call and athletics was considered to be the need."

In addition to Hart suggesting ideas for the Pirates and their teams as a special adviser for most of this year, he recently led the school's search for a new athletics director, which landed Jon Gilbert from Southern Miss, and the subsequent hire of Houston. Fans have greeted those hires with approval and optimism.

The Pirates had been without an AD since Jeff Compher accepted a \$1.26 million buyout from the university in March.

Hart and Eppes said Gilbert was aware of ECU's finances before he accepted the position with the Pirates.

"I could sense as Jon met the staff, that was an uplifting moment," Hart said. "There has been a lot of challenges and Jon knew about that and there was full disclosure with Jon and then full disclosure with Mike about our challenges and where we are financially. There is a lot of good, and there are significant challenges.

"Jon will weigh into them in a very professional manner, and I think this is the beginning of us turning the corner."

Gilbert said Monday during his introductory news conference that he is not ready to put a timeline on a training table for the Pirates, but it is viewed now as a necessity in college athletics.

[\(LINK: Eating is better in Power Five conferences\)](#)

He and Houston both have roots in North Carolina and have moved to the forefront of Pirate athletics this week, each vowing to produce success at East Carolina.

"It is not about me, but it is about East Carolina as an institution and about this department of athletics and our coaches and our student-athletes," said Gilbert, who at Southern Miss hired the first full-time nutritionist at a Conference USA school. "I am a servant leader and am able to make the decisions that leaders need to make, but I want to support our coaches and our student-athletes and our fan base through the success that we all expect."

Pirate Club Executive Director Phillip Wood said Gilbert already has shown an ability and a desire to reach all fans and to be visible and accessible in the community. Houston comes with an 80-25 career record as a head coach after successful stints at Lenior-Rhyne, The Citadel and James Madison.

"I think anytime there is uncertainty, that creates anxiety, and certainly this is a passionate fan base that is excited about East Carolina athletics," Wood said Wednesday afternoon. "To be able to not only just fill the role of AD and head football coach, but to fill those positions with two outstanding people and two people who understand our culture certainly excites me, but I also know that it excites all East Carolina fans."

Contact Ronnie Woodward at [rwoodward@reflector.com](mailto:rwoodward@reflector.com), 252-329-9592 and follow @RonnieW11 on Twitter. Bobby Burns and Nathan Summers contributed to this report.

## From Today

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on Monday

Sgt. Agbar, a 10-year old Belgian malinois, adopted by a Kinston family in 2014 after three tours in Afghanistan with the U.S. Army, spent Saturday afternoon at Pet Supplies Plus on Criswell Drive to visit with customers and help the store's program to support retired military

BYH to people that rush Christmas by putting up their lights and trees before Thanksgiving. I guess you take your cues...

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## ECU women strive for steals

November 06, 2019

East Carolina first-year women's basketball coach Kim McNeill admitted during the preseason that this ECU roster is not blessed with many great shot-blockers or 3-point shooters, but she wants steals.

McNeill's teams at Hartford the last three seasons thrived on defense, which she wants to...



## Gardner still 'beast mode' in Pirate win

November 05, 2019

Don't forget about Jayden Gardner.

With most of the offseason attention for the East Carolina basketball team centered around 11 signees in hopes of an ECU hoops revitalization, especially three new 7-footers and former Washington Huskies forward Bitumba Baruti, the Pirates beat Virginia...



## Breaking down the RPO

November 05, 2019

It was predetermined that the East Carolina football team wanted to be aggressive last Saturday against No. 17 Cincinnati, but after the ball was kicked off, a major force behind the Pirates' offensive outburst was correct execution by quarterback Holton Ahlers and others on run-pass options plays...



## Pirates set for opener in Minges

November 05, 2019

It's brighter in Minges Coliseum and East Carolina's basketball team is hoping to match the upgrade to its playing surface when the Pirates begin a new season tonight against Virginia Military Institute.

Tip-off in Minges, which underwent brightening, new branding and logo upgrades during the same...



## Roundup: Worrell shines; Volleyball makes more history

November 04, 2019

A big weekend by Bryson Worrell lifted his Gold team to a victory over Purple in the East Carolina baseball fall World Series.

Worrell, a projected starting outfielder entering his junior season, hit two home runs during the series. The second was Sunday during a 6-0 victory for the Gold. He was 1-...



## AAC: Now boasting four ranked teams

November 04, 2019

Add Navy to the list of American Athletic Conference ranked football teams.

The Midshipmen are 7-1 after routing Connecticut 56-10 on Saturday, and they are No. 25 in this week's AP Top 25 rankings. Navy joined thriving AAC clubs Cincinnati (No. 17), Memphis (19) and SMU (23). The American also is...



## Reshuffled line helps offense thrive

November 04, 2019

Record-breaking skill players grabbed the immediate attention for East Carolina's football team late Saturday night after a 46-43 near-upset of No. 17 Cincinnati at Dowdy-Ficklen Stadium.

Freshman receiver C.J. Johnson exploded for an American Athletic Conference-record of 283 receiving yards....



## WOODWARD: Pirates played their best game

November 04, 2019

Performances in athletics can be great, they can be memorable and they can be record-breaking, but that doesn't always equal a win.

Sports outcomes can be cruel sometimes, which is what happened Saturday night when East Carolina played its best football game of the season — by far...



## Tweets by @reflectornews

The Daily Reflector Retweeted



**Ron Mitchelson**  
@ECUChancellor

Bill Staub and the pep band are getting #PirateNation ready for @ecubasketball tip off 🏀 #WeTheEast 🐼 -RM



15h



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@reflectornews

Greenville incumbents hold strong lead in early returns: [reflectornews.com/News/2019/11/0...](https://reflectornews.com/News/2019/11/0...)

14h

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## BATTLE FOR N.C.: Wake back in first

November 04, 2019

Somehow, comparing resumes of Appalachian State to Wake Forest remains difficult in early November, but major clarity should come with one more weekend of games. App. State made it difficult when it lost in Boone on Halloween night, 24-21, to rival Georgia Southern for another reminder that the...



## ECU baseball: Fall takeaways

November 03, 2019

East Carolina baseball officially wrapped up its fall practices Sunday with the end of the Purple-Gold World Series.

Here are some takeaways from the fall:

1. Gavin Williams to the forefront: The talented and hard-throwing junior pitcher threw consistently in the mid- to high-90s. Notable...



263 stories in ECU. Viewing 1 through 10.

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## Humans of Greenville

@HumansofGville

Local photographer **Joe Pellegrino** explores Greenville to create a photographic census of its people.

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# Report: ECU finances show waning cash flow

*By BusinessNC Posted March 27, 2019 In Blog*

East Carolina University is experiencing sharply declining cash flow as it seeks to hire a new chancellor, according to an internal report that is under discussion by officials of the campus and UNC System.

The unaudited report shows that ECU is projected to report a \$28 million decline in cash flow in the fiscal year ending June 30 related to tuition, state appropriations, athletics and the university's ECU Physicians medical unit. That compares with positive cash flow of more than \$34 million in 2016, \$18 million in 2017 and \$8 million last year, the report notes.

University spokesperson Jeannine Manning Hutson said, "We believe it's premature to report these numbers publicly since we're not confident in their reliability." She called the report a "working document, not a final one."

Kieran Shanahan, chairman of the **ECU Board of Trustees**, did not respond to a request for comment on the report, which has been shared with that board and top administrators at the UNC System. Data in the report was compiled by a senior ECU official, according to four people familiar with the matter.

ECU, North Carolina's fourth-largest public university and the key economic driver for much of eastern North Carolina, has said its enrollment dipped last fall, with further declines likely in the 2019-20 school year. Fewer students means reduced tuition revenue and less state funding, contributing to an expected \$10 million decline in tuition-appropriations cash flow this year. That compares with gains of \$9 million last year and \$20 million in 2016, according to the report.



Chancellor Cecil Staton, who is **stepping down in May**, has said that other UNC System campuses are recruiting more aggressively for students from eastern North Carolina. Also, two regional schools – Elizabeth City State University and UNC Pembroke – are offering \$500-per-semester tuition plans that undercut ECU.

The biggest expected cash flow decline is in the ECU athletics department, with a \$12 million reduction projected this year, compared with a cumulative decline of \$4 million over the last three fiscal years.

ECU's football program has experienced attendance declines with the team losing 75% of its games over the last three years. To reverse those fortunes and fill a stadium undergoing a \$60 million renovation, ECU hired **a new athletic director and football coach** in December. An athletics department spokesman declined to discuss the report, deferring to other university officials.

In addition to the projected cash-flow declines cited previously, the report cited additional expected deficits totaling \$28 million related to four other university accounts: student unions (\$9.6 million decline); dining service (\$10.7 million); facilities and administrative services (\$5.5 million) and housing (\$2.6 million.) Previous performance of those accounts wasn't included in the report.

ECU's board met with UNC System President Bill Roper Monday, partly in private. Roper told the trustees he wanted input on filling Staton's position on an interim basis while the university seeks a permanent chancellor, according to a *Greenville Daily Reflector* story. It made no mention of financial issues.

After announcing his resignation on March 18, Staton said he was receiving about \$590,000 as part of the separation. He also said he had agreed to a non-disparagement clause.

Former UNC President Margaret Spellings conducted a review of Staton's performance last year, which hasn't been made public. More recently, **former N.C. Senator Pete Brunstetter**, a Winston-Salem lawyer who now works for the UNC System, has examined the campus' operations. Brunstetter's LinkedIn page cites his title as the system's interim chief operating officer.

According to ECU's **audited 2018 financial statement**, the university had total revenue of \$962 million, nearly a fourth of which stemmed from medical patient services. ECU operates the Brody School of Medicine and employs several hundred physicians, many of whom teach medical students and work for the ECU Physicians practice. ECU Physicians is expected to have a negative cash flow of \$5 million this year, down from gains of \$19.7 million in 2016; \$6.7 million in 2017 and about \$600,000 last year, according to the internal report.

State appropriations made up 32% of ECU's total funding in 2018, while tuition and fees contributed 21%.

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East Carolina University / Acceptance rate

70.3%

2016-17

People also search for

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- North Carolina State Un... 47.5%
- University of North Carolina... 26.9%

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Feedback

### East Carolina University - Admission Requirements, SAT, ACT ...

<https://www.collegesimply.com> > colleges > north-carolina > admission ▾

How hard is it to get into ECU and can I get accepted? The school has a 79% acceptance rate ranking it #44 in North Carolina for lowest rate of acceptance.

### ECU Admission Requirements - PrepScholar

[www.prepscholar.com](http://www.prepscholar.com) > sat > colleges > ECU-admission-requirements ▾

The acceptance rate at ECU is 78.8%. For every 100 applicants, 78.8 are admitted. This means the school is lightly selective.

### East Carolina University: Acceptance Rate, SAT/ACT Scores ...

<https://www.thoughtco.com> > ... > College Admissions > Testing Graphs ▾

Aug 27, 2019 - East Carolina University is a public research university with an acceptance rate of 82%. Located in Greenville, North Carolina, East Carolina University is the third largest university in the state. ... Here are the admissions statistics you should know, including average SAT/ACT ...

### East Carolina University - Profile, Rankings and Data | US ...

<https://www.usnews.com> > Education > Colleges ▾

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## East Carolina University

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Public university in Greenville, North Carolina

East Carolina University is a public research North Carolina. It is the fourth largest univer: Founded on March 8, 1907 as a teacher train Carolina has grown from 43 acres to almost [Wikipedia](#)

Avg cost after aid \$15K | Graduation rate 59%

Graduation rate is for first-time, full-time undergrad Source: US Dept of Education · [Learn more](#)

Address: E 5th St, Greenville, NC 27858

Phone: (252) 328-6131

Undergraduate enrollment: 22,386 (2016-17)

### Profiles

- Twitter
- LinkedIn
- Instagram

### Notable alumni

- Sandra Bullock
- Emily Procter
- Chris Johnson
- V
- N

More about East Carolina Unive

Sources include: College Scorecard, IPEDS. [Disclaim more](#)

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GREENVILLE, NORTH CAROLINA

## ECU Admission Requirements

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### Chances of getting into East Carolina University

#### Acceptance Rate

ACCEPTANCE RATE

79%

Admission Standards **Easy**

Applicant Competition **Very Low**

How hard is it to get into ECU and can I get accepted? The school has a 79% acceptance rate [ranking it #44 in North Carolina for lowest rate of acceptance](#). Last year, 12,533 out of 15,860 applicants were admitted making East Carolina University an **easy school** to get into with a **very good chance of acceptance** assuming you meet the requirements. Academically, it has **easy requirements** for admission test scores, generally **admitting students who score in the top 44 percent**. East Carolina University typically accepts and attracts **"B+" average high school students**. Only 35% of those admitted chose to enroll in the school. Most incoming freshmen graduated in the **top half of their high school class**.

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Find out which students are getting accepted at ECU, which are not, and how your GPA, SAT, or ACT scores compare.

### Can you get into ECU?

[Compare yourself with other successful applicants and get your admission chances instantly with Cappex](#)

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### ECU SAT Scores

SAT Requirements & Average SAT Score

SAT RANGE

**1110-1250**

APPLICANTS SUBMITTING SAT

**49%**

SAT Reading 25th	570	SAT Reading 75th	640
SAT Math 25th	540	SAT Math 75th	610
SAT Composite 25th	1110	SAT Composite 75th	1250
		Average SAT Score	1180

**SAT Scores you need to get in**

What are the SAT requirements for students to be admitted to East Carolina University?

East Carolina University typically requires applicants to be in the **top 39 percent of SAT test takers**. The school consistently takes SAT composite scores down to 1110 on a 1600 scale, below which admission should be considered a reach. We estimate some students could be accepted with SAT's as low as 1040. The estimated average SAT composite for admitted freshman is 1180 out of 1600. [The school ranks #14 in North Carolina for highest average SAT composite score](#). 49 percent of applicants submit SAT scores to the school. *Note: SAT scores presented on this page have been adjusted upwards per the College Board's concordance tables for test takers after March 2016.*

Data Sources, IPEDS for Fall 2017 starting class

## Estimated Chance of Acceptance by SAT Score

SAT SCORE (1600 SCALE)	COMPETITIVENESS	ADMISSION CHANCES
1250 and Above	Good	>86%
1180 to 1250	Avg +	79%-86%
1110 to 1180	Avg -	69%-79%
1040 to 1110	Reach	57%-69%
Less than 1040	Low	<57%

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**ECU ACT Scores**

## ACT Requirements &amp; Average ACT Score

ACT RANGE

**20-24**

APPLICANTS SUBMITTING ACT

**50%**

ACT Reading 25th	19	ACT Reading 75th	24
ACT Math 25th	18	ACT Math 75th	24
ACT Composite 25th	20	ACT Composite 75th	24
		Average ACT Score	22

**ACT Scores needed to get accepted**

What are the ACT requirements for prospective students to get into ECU?

Admission data indicates that ECU regularly accepts students with ACT's of 20 and above. Successful applicants typically send **ACT scores in the top 49 percent nationally**. We estimate the school accepting minimum ACT composite scores around 18 in some instances. Prospective students submitting an ACT composite of 22 or higher should be in the upper half of applicants - and students with a 24 and above have very competitive chances. [The school ranks #15 in North Carolina for highest average ACT composite score](#). 50 percent of applicants submit ACT scores to East Carolina University.

Data Sources, IPEDS for Fall 2017 starting class

#### Estimated Chance of Acceptance by ACT Score

ACT SCORE	COMPETITIVENESS	ADMISSION CHANCES
24 and Above	Good	>86%
22 to 24	Avg +	79%-86%
20 to 22	Avg -	69%-79%
18 to 20	Reach	57%-69%
Less than 18	Low	<57%

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#### Estimated GPA Requirements & Average GPA

AVG. HIGH SCHOOL GPA

**3.59**

TYPICAL HIGH SCHOOL GRADES

**B+**

You will need **very good grades in high school** to get into East Carolina University. The average high school GPA of the admitted freshman class at East Carolina University was 3.59 on the 4.0 scale indicating that primarily B+ students are accepted and ultimately attend. [The school ranks #16 in North Carolina for highest average GPA](#). If your high school grades are above the average 3.59 GPA, you have a **very good chance of being admitted** as ECU accepts 79% of all applicants.

**i** [What do these ratings mean?](#)

HIGH SCHOOL GPA	FRESHMEN WITHIN RANGE	COMPETITIVENESS
3.75+	44%	Good
3.50 to 3.75	18%	Avg +
3.25 to 3.50	16%	Avg -
3.00 to 3.25	12%	Reach
2.75 to 3.00	8%	Reach
2.50 to 2.75	1%	Reach
2.25 to 2.50	N/A%	Reach
2.00 to 2.25	N/A%	Reach

GPA Data Source, Wintergreen Orchard House

## High School Class Rank

81% of East Carolina University freshman were in the top half of their high school graduating class.

HIGH SCHOOL CLASS RANK	FRESHMEN WITHIN RANGE
Top 10% of class	15%
Top 25% of class	43%
Top 50% of class	81%
Bottom 50% of class	19%
Bottom 25% of class	2%

Data Sources, Wintergreen Orchard House

## Admission Statistics

	WOMEN	MEN	TOTAL
Applied	9,721	6,139	15,860
Accepted	7,736	4,797	12,533
Acceptance Rate	80%	78%	79%
Enrolled	2,582	1,780	4,362
Percent of Admitted Who Enrolled (Admission Yield)	33%	37%	35%

## Fall 2020 Application Deadline

APPLICATIONS ARE DUE

DAYS LEFT TO APPLY

**Mar 15, 2020**      **129**

Applicants have 129 days left until the Fall 2020 term applications are due on Mar 15, 2020.

Seniors, these are the SAT and ACT test dates you can still sit for a test and send your results to ECU before the Mar 15 application deadline.

SAT TEST DATE	SCORES AVAILABLE
Dec 7	Dec 20
ACT TEST DATE	SCORES AVAILABLE
Dec 14	Dec 24
Feb 8	Feb 19

## Admission Requirements

What are the requirements for admission to East Carolina University and what considerations affect admission decisions?

Test Scores	<b>Required</b>
High School GPA	<b>Required</b>
High School Class Rank	<b>Neither required nor recommended</b>
Completion of College Preparatory Program	<b>Recommended</b>
Recommendations	<b>Neither required nor recommended</b>
Demonstration of Competencies	<b>Neither required nor recommended</b>

Credits Accepted	
AP Credit	<b>Yes</b>
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**From:** Tim Kent <tkent@ncbwwa.org>  
**Date:** October 7, 2019 at 8:28:46 AM EDT  
**To:** "Tom Fetzer (thfetzer@gmail.com)" <thfetzer@gmail.com>, David M Powers <dpowers@powersstrategies.com>  
**Subject:** Greenville editor on Gerlach

<http://www.reflector.com/Opinion/2019/10/06/Burns.html>

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# Burns: Gerlach pics anything but fake news

Sunday, October 6, 2019



Supporters of Dan Gerlach, interim chancellor at East Carolina University, launched a sustained attack against The Daily Reflector last week because of a story we published about photographs of Gerlach bar hopping in Greenville. My response to them and their cries of fake news is that our coverage has been accurate, responsible and all too real.

The story broke a week ago today when an anonymous tipster emailed the photos to me and senior reporter Ginger Livingston at the Reflector, to several other media outlets and some ECU trustees. We published a story online Sunday night and in Monday's paper.

It reported what was in the photos along with facts we were able to confirm about the night of Wednesday, Sept. 25. We correctly reported Gerlach was photographed drinking, dancing and touching female bar patrons. We published five of the photos with the story online. In print on Monday we published a photo of him chugging a beer and a front-page photo of him standing between a woman's legs.

The response to the story on social media was swift and overwhelmingly negative. The gist of most comments: Photos of the interim chancellor having a good time with students downtown was not news, and the implication that his behavior was inappropriate was tabloid fodder.

Gerlach and ECU seemed to arrive at the same conclusion when they responded Sunday to our request to interview Gerlach. ECU emailed a statement that said the photos showed him addressing concerns that the chancellor needed to be present and approachable. "I regret that these photos are being perceived as anything more," he said.

They looked like something more to me, and they looked like something more to officials who placed Gerlach on leave the next day. At the very least they raised questions. Here are a few:

Is it appropriate for the head of a university to be drinking with students at late-night bars when heavy drinking and underage drinking continue to be a pervasive problem on college campuses?

Is it wise for a man in that position in this day and age to put himself in situations with women that could be perceived the wrong way?

Would I want the chancellor to be out taking selfies with my daughters on a Wednesday night, or would I want him to encourage my daughters to be studying or sleeping?

Is this the best look for a college that has worked diligently to shed its image as a party school?

These questions and others raised by Gerlach's activities are hardly tabloid fodder. They are the type of questions we would have asked the interim chancellor Sunday if we had been given the chance. They are the type questions he has had to answer since we published the very real, front-page news on Monday.

In fact, Gerlach has since admitted publicly on several occasions that he used poor judgment that Wednesday night.

The question going forward is whether he should keep his job as interim chancellor and possibly take on the job in a permanent capacity. The decision to place him on leave and investigate the matter thoroughly should help answer that.

We can only hope rules that allow the state to withhold information in personnel matters don't cloud the outcome. University officials and Gerlach must understand that the details of this matter need to be aired in full view of the public.

Sometimes, airing the news in the full view of the public is unpleasant, but it's the only way for us to know the truth.


The truth is I like "Chancellor Dan." I like his down-to-earth approach and the energy and positive vibe he brought to ECU. The truth is, I dislike this story immensely.

The truth is that people in Gerlach's position are held to the highest standards, and if his fortunes have changed, it's because of his decisions alone.

*Bobby Burns is editor of The Daily Reflector.*

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The Daily Reflector  
on Monday

Sgt. Agbar, a 10-year old Belgian malinois, adopted by a Kinston family in 2014 after three tours in Afghanistan with the U.S. Army, spent Saturday afternoon at Pet Supplies Plus on Criswell Drive to visit with customers and help the store's program to support retired military

BYH to people that rush Christmas by putting up their lights and trees before Thanksgiving. I guess you take your cues...

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## From Today

<p><b>Greenville incumbents swept</b></p> 	<p><b>Vikings out, Chargers victorious</b></p> 	<p><b>ECU names interim provost</b></p> 	<p><b>Pitt ABC stores hit by ransomware attack</b></p> 
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# Opinion

## Writer should lament less about religion's decline

November 06, 2019

In a recent letter Bill Redding appears to lament the downswing in Americans describing themselves as Christians. (Religion should not dominate politics, Oct. 30) Then he goes on to describe all the sins of people who are not truly led by either Testament of the Bible, both Christians and Jews....

## Nov. 6 Bless Your Heart

November 06, 2019

BYH, Cecil Staton, who is saying, miss me now?

BYH P.J. Connelly. We will be glad when the election is over and no longer see your TV ads saying you are better than grits. LOL. Thanks (not) to the PAC that paid for your ads.

We must be watching the wrong channel. It's hard to beat a good bowl...

## Republicanism has no use for democracy

November 05, 2019

"This president will be in power for only a short time, but excusing his misbehavior will forever tarnish your name. To my Republican colleagues: Step outside your media and social bubble. History will not look kindly on disingenuous, frivolous and false defenses of this man." These...

## Nov. 5 Bless Your Heart

November 05, 2019

Congratulations to Farmville and Farmville Middle School for having the Best Middle School Teacher and the runner up for Best Middle School Coach in the Reflector's Best Of poll. Your community is truly blessed.

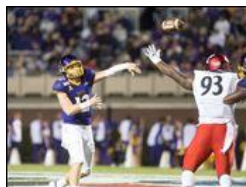
BYH to the person who says this is the best economy in our lifetime, because you...

## WOODWARD: Pirates played their best game

November 04, 2019

Performances in athletics can be great, they can be memorable and they can be record-breaking, but that doesn't always equal a win.

Sports outcomes can be cruel sometimes, which is what happened Saturday night when East Carolina played its best football game of the season — by far...



## Closure left food desert in city's center

November 04, 2019

A few months ago Harris Teeter grocery store closed its smaller store location on the corner of Charles and 14th street, leaving a big hole in the middle of Greenville.

Several of my friends have lamented the loss of this shopping option near the downtown area and close to many families in my...

## Nov. 4 Bless Your Heart

November 04, 2019

BYH to anyone who says Nov. 1 is too early to hang Christmas lights or put up the tree. There's a reason Santa loves us more than you.

BYH to the individual who desired to smell the turkey of the wealthy in the Brook Valley cut through. The best smelling turkey in the world is on a U.S. Army base...

## Time to choose in municipal elections

November 03, 2019

More than 4,200 people have voted already in the 2019 municipal elections. Many of you who will vote on Tuesday already have decided which candidates will get your vote. For those of you who have not, here is a quick review.

In Greenville, five out of seven seats on the City Council are up for...



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@ECUChancellor

Bill Staub and the pep band are getting #PirateNation ready for @ecubasketball tip off 🏀 #WeTheEast 🇺🇸 -RM



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Greenville incumbents hold strong lead in early returns: [reflector.com/News/2019/11/0...](https://reflector.com/News/2019/11/0...)

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## Jail Bookings



All Charges are preliminary  
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## President achieves success against terrorists

November 03, 2019

Five thousand gold stars to the president for successfully taking out not only Baghdadi but also Abu al-Hassan al-Muhajir a day later. Major accomplishments. And only a fool would have told the Congress in advance; they are worse than a torn fish net for keeping a secret.

G. Gary Giles  
Pitt County...

## Founding board member will be missed

November 03, 2019

Steve Harding was a founding board member of Eastern North Carolina Stop Human Trafficking Now in 2010. He began serving as secretary to the board at that time and held that position until his death.

Steve also used his creative skills as a graphic designer to benefit the nonprofit. He designed...

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**Sent:** Thursday, October 24, 2019 6:33 AM  
**To:** Jones, Beth  
**Subject:** Fwd: TBJ Article

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**From:** Angela Moss <angela.moss@hotmail.com>  
**Date:** August 17, 2019 at 8:34:19 AM EDT  
**To:** Tom Fetzer <Tom@fetzerlee.com>  
**Subject:** TBJ Article

By [Seth Thomas Gulledge](#) – Staff Writer, Triangle Business Journal  
Aug 16, 2019, 6:00am EDT **Updated** Aug 16, 2019, 1:58pm EDT

On Jan. 16, 2015, thousands of high school students across North Carolina and beyond excitedly shared the news they had just been accepted to UNC-Chapel Hill for the fall. And while those students were celebrating with parents and sharing the news on social media, University of North Carolina system President Tom Ross was forced out on the same day.

Many of those students — at UNC and schools across the system — had no idea that moment would serve as a harbinger of a long sequence of controversy and chaos that would define their college lives.

[Margaret Spellings](#) would replace Ross, but last only three years. UNC-Chapel Hill Chancellor [Carol Folt](#) was ousted after her decision to remove a Confederate statue after ongoing protests irked some on the system board of governors.

Across the system, students would feel the impact of a university system that was more chaotic. The hiring for a new chancellor at Western Carolina University was marked by an unsteady search. At East Carolina University, Chancellor Cecil Staton survived only three years, and there were other controversies surrounding a student housing complex and a battle between its local hospital and the UNC system.

All this has led to rising concern about the UNC system and the board that governs it, with a statewide consortium of business and political leaders pointing to concerns. It's a broad mix of leaders, from both political parties, who say "micromanagement" by the governing board has led to countless instances they worry will tarnish the face of one of the state's most important assets: its higher education system.

And with thousands of students returning to campuses around the state this month, these leaders are concerned that more missteps could be ahead. They also worry that continued disorder could lead to a steady degradation of the quality of talent and research coming out of the universities years down the road – spelling trouble for a state economy driven by the education system.

But the system’s supporters fire back that, by most metrics, the system is seeing a period of growth and excellence, with growing application numbers, research dollars and even graduation rates – begging the question whether all of the controversy and chaos is doing actual, or just perceptive, harm.

In fact, the UNC system Board of Governors Chairman [Harry Smith](#) is quick to deny any charges of micromanagement. “Unfortunately, sometimes you have to drive change and this is not a space that traditionally has not been subjected to a lot of change,” he says. “Their idea of micromanagement is actually proper governance and oversight.” In the North Carolina General Assembly – the popular target of criticisms – Senate President Pro Tempore [Phil Berger](#) says much of the criticism is founded more on political differences than on genuine concern. And he wonders aloud whether critics are more interested in the future of the UNC system or regaining lost political power through “undermining” a period of genuine progress.

“Some of the complaints you’re hearing are coming from folks who were, at one time, on the inside in terms of what’s being done and now on the outside,” he says. “You’ve got to take their statements with a grain of salt.”

But while the system’s metrics seem strong now, some North Carolina leaders say even perceptive harm done by repeated controversies and back-and-forth between supporters and critics is enough to threaten the immediate future of higher education – and could spell the beginning of a decline of North Carolina’s prized commodity.

“The people of North Carolina, regardless of political affiliation, know and understand one of the greatest jewels in our state is our system of higher education,” says Kieran Shanahan, a Republican and the outgoing chairman of ECU’s board of trustees. “They don’t want to see the in-fighting. It’s disheartening that [Margaret Spellings](#) was run off and disheartening that we have all these other collateral issues.”

[Enlarge](#)

Breaking Down the Universities

DATHAN KAZSUK

## **At-risk**

For centuries, institutions such as UNC-Chapel Hill and N.C. State University have offered high-quality educations for North Carolinians, and the state’s system has steadily risen in national prestige.

But the recent series of rapid controversies, critics say, has created a perception of disorder that diminishes the prestige of the UNC system and has created a long list of

vacancies in critical leadership roles throughout system. Those roles, they say, will be difficult to fill precisely because of that diminished prestige.

“I think that it’s having an impact,” says Chapel Hill developer [Roger Perry](#), one of more than 200 influential North Carolina business personalities signed onto a public campaign for a UNC system reformation. “My guess is that many qualified candidates for these jobs are hesitant or reticent to apply for them when they see the dysfunction that’s going on with the board.”

That hesitance, he worries, could be a detriment to the future of the system.

Currently, the UNC system president and the chancellors of UNC-Chapel Hill, East Carolina and Fayetteville State University are in interim roles. The system also has brought in two new chancellors this year.

Even Dr. Bill Roper, the current interim system president, seems to agree it may be more difficult to find top candidates.

“That’s a risk that is a real risk – that is that we will turn off people’s interest in serving in senior positions in the university system – I get that,” he says. “Unfortunately, I don’t have a magic wand or an instant solution.”

The lack of an instant solution has people such as Shanahan worried.

“I’m a very hopeful optimistic guy, but if the pattern doesn’t change, the country is looking and they’re noticing things like Silent Sam – not just the issue, but how it’s handled,” he says. “Or how do we treat a [Margaret Spellings](#) or the chancellors at universities. How easy is it going to be to go out and recruit top-level candidates around the country when all they have to do is go on Google and read the articles?”

That long-term effect, critics worry, will not just be limited to leadership.

“I worry about the impact on faculty retention,” Perry says. “When really top-quality faculty perceive that their work is being micromanaged or observed at a microlevel or criticized by – quite frankly – a board that doesn’t really have the knowledge and experience to do those kind of things, I think it makes them question whether or not they want to stay and be a part of it.”

And having top-tier faculty at the universities has a direct effect on the business environment of the state.

In the last year alone, the state's largest universities – UNC-Chapel Hill, N.C. State and Duke University – have spun out more than 41 companies – almost exclusively inspired or run by faculty. In addition to new companies, faculty research also led to more than \$1.5 billion in research income during 2018.

“So many of our great faculty, especially at the flagships – UNC-Chapel Hill and N.C. State – basically could go teach and do their research at almost any major university in the country, and in many cases the world,” says Perry, a longtime supporter of the Democrats. “I worry about this meddling and micromanagement and focus on things that aren't really part of the academic mission affecting their attitude.”

In addition to new companies and research, the state also has to consider a central mission of academia: producing a talented workforce.

“The best and brightest students want to go to school with the best and brightest students and be taught by the best professors,” Perry says.

### **Good data**

But for university leadership, it is workforce and research – as well as a wealth of other metrics – that they say is proof that UNC system is thriving.

Since 2015, system-wide undergraduate degree efficiency (the number of degrees incurred per 100 students enrolled at a university) has risen from 22.5 to 23.6, five-year graduation rates have risen from 66 percent to 70.3 percent and research and licensing dollars are up 10 percent per year.

Roper says acknowledging that success – which he refers to as the cake underneath the more salacious icing – is an important next step for the system.

“People have said that the last period has been a pretty unsettled or even chaotic time. I agree with that,” Roper says. “When I first spoke to the Board of Governors at my first meeting with them in January, I said I had three priorities and priority No. 1 is to settle things down. I think it's a work still in progress; we're not done yet.”

He says his plan for recovering the system is one relying on “regular process” – a term he says he lifted from Senate Majority Leader Mitch McConnell.

The goal, Roper says, is to proceed with the task of governing the university system with professionalism and order, hoping to get everyone to a place where “everything is not a surprise, everything is not a fire drill.”

Roper says he understands the concerns about the period of unrest, but believes fixing it requires changing the perception that is in disarray, noting that things have seemed to enter a period of calm.

“We can do a better job of telling the fulsome story about the institution,” he says. “It’s a constant effort to tell this, because, heavens, when you add together the students, faculty and staff of the university system we’re about 300,000 people. It’s hard to tell that in a fair and accurate way.”

### **What’s the problem?**

But critics of the system say their concerns are not over the superlatives, rather they are worried about the influencing factor of leadership outside the system – namely from the North Carolina General Assembly (NCGA).

“Clearly this has been the acts of the legislators – especially the Senate – since 2010, who have obviously slashed higher education funding in a draconian manner, have changed the rules to how people are appointed to Board of Governors and Board of Trustees, and have generally meddled in the overall operation of the system,” Perry says. “It all goes back to that source. You don’t have to be very smart to connect the dots.”

According to UNC system records, total state appropriations to the system have steadily risen from \$2.48 billion in FY2010 to \$2.78 billion in FY2017 – an 11 percent increase. However critics say that despite increasing appropriations, the NCGA has failed to keep up with the pace of growth. In the same period, appropriations-per-student in the UNC system have risen from \$10,863 to \$11,503. In 2007, that number was reported at \$12,054.

At ECU, Shanahan agrees that meddling from the political arena may be to blame for a long list of problems the university has struggled through, including a very public fight over the UNC Board of Governors changing ECU’s list of suggested members for its own board of trustees.

“If Jones Street would just look at its assets and leave politics at the door, we could have multiple crown jewels in our university system.”

When asked to respond to concerns, Roper says, “That is a fair criticism, I won’t try to push back at people. Folks fondly remember a time in the past when the university system was beyond politics or above politics.

“I’m not sure all those memories are accurate, but if we could get to a time when people generally thought well of what we do and we didn’t have any political arguments, would the world be the better place? Absolutely, sign me up.”

### **Are politics at play?**

People like Perry say overreach by the General Assembly has extended into their selection of Board of Governors members pushing ulterior agendas.

But as head of the Senate, Berger disagrees with that assessment, saying that board members are never appointed with “specific instructions.”

“I don’t think it’s necessarily wrong for folks who are elected to a majority in the General Assembly to expect and to want people in positions that they have the authority to appoint to be in line or in agreement with them on certain philosophical issues,” he says, adding that he believes the appointees represent “the majority view of the people of the state.”

Berger says that he does believe that several of their appointees are pushing an agenda – but it’s hardly a secret one.

“I feel like the members of the Board of Governors that have been appointed over the last several years have coalesced around a program of trying to address the cost of higher education and trying to find ways to be as efficient as possible with public dollars,” he says.

He says he does not believe the NCGA has taken a heavier hand in shaping the system, saying he believes the “hand that exists is the same that has for the most part all along.”

Berger says they hope to see fiscal responsibility and a concentration on lowering costs.

“I do think there’s a perception that constantly seems to be validated that in many respects universities are out of step with the people of North Carolina as a whole,” he says. “But I don’t know that there’s a whole lot that can be done or is being done about that.”

### **Old guard**

Chairman Smith vehemently denies that he, or any of the governors, are micromanaging or pushing secret agendas.

To Smith, the recent years of the UNC system have incited controversy, but he says most of it has come from a “very, very small local minority” adding that many of them are the “old guard.”

That “old guard,” Smith says, left system leaders with a long list of problems, including repair and renovation needs with no plan to fund, and untrained trustees.

“What happens is when we run into tons of emotions, these are the folks that have fallen prey to relationships rather than results,” he says. “They have fallen prey to personalities versus the performance.”

Smith says he believes that while he cannot convince a “lunatic fringe” of the good work the system is doing, the current leadership’s guidance of “fact, data and details” is the best course.

Berger believes the majority of criticism is coming from a small group, saying many of them – including some Republicans – are merely part of a group no longer in power making noise.

“I don’t think you can have discussion of this sort without realizing that there was a sea change in North Carolina as a result of the elections in 2010,” he says. “The party that had for over 100 years been driving the bus, or riding the horse, changed. There are certain people who were in a position to make decisions or be involved who are not in those positions.”

The more calculated approach to governance, Smith says, may be why some people have become so vocal. He says that “old guard” could be the reason they have so much work to do.

“If you take a look at what we have inherited, in my opinion there’s not been a whole lot of governance and oversight, there’s been a whole lot of rubber stamping and a pile of parties.”





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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 6:38 AM  
**To:** Jones, Beth  
**Subject:** Fwd: RR-0839 - Responsive E-mails (00091583xD856D).pdf  
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**From:** "Payne, Donna Gooden" <[PAYNED@ecu.edu](mailto:PAYNED@ecu.edu)>  
**To:** "Phil Lewis ([lewisphil54@gmail.com](mailto:lewisphil54@gmail.com))" <[lewisphil54@gmail.com](mailto:lewisphil54@gmail.com)>, "Davenport, Vern" <[vern.davenport@gmail.com](mailto:vern.davenport@gmail.com)>, "Angela Moss ([AngelaECU@hotmail.com](mailto:AngelaECU@hotmail.com))" <[AngelaECU@hotmail.com](mailto:AngelaECU@hotmail.com)>, "[Fielding.miller@captrustadvisors.com](mailto:Fielding.miller@captrustadvisors.com)" <[Fielding.miller@captrustadvisors.com](mailto:Fielding.miller@captrustadvisors.com)>, "Robert Moore" <[rileyoutdoor@gmail.com](mailto:rileyoutdoor@gmail.com)>, "Jason Poole ([Jason@trpcpa.com](mailto:Jason@trpcpa.com))" <[Jason@trpcpa.com](mailto:Jason@trpcpa.com)>, "SGAPRESIDENT" <[SGAPRESIDENT@ecu.edu](mailto:SGAPRESIDENT@ecu.edu)>, "Vince Smith ([Smithv84@hotmail.com](mailto:Smithv84@hotmail.com))" <[Smithv84@hotmail.com](mailto:Smithv84@hotmail.com)>, "'Leigh J. Fanning ([leighfanningecu@gmail.com](mailto:leighfanningecu@gmail.com))'" <[leighfanningecu@gmail.com](mailto:leighfanningecu@gmail.com)>, "Bob Plybon" <[rplybon@plybon.com](mailto:rplybon@plybon.com)>, "Jim Segrave ([jsegrave@lgm-enterprises-llc.com](mailto:jsegrave@lgm-enterprises-llc.com))" <[jsegrave@lgm-enterprises-llc.com](mailto:jsegrave@lgm-enterprises-llc.com)>, "Max Joyner ([mjoyner@towneinsurance.com](mailto:mjoyner@towneinsurance.com))" <[mjoyner@towneinsurance.com](mailto:mjoyner@towneinsurance.com)>, "Tom Furr ([tpfurr@gmail.com](mailto:tpfurr@gmail.com))" <[tpfurr@gmail.com](mailto:tpfurr@gmail.com)>  
**Cc:** "Gerlach, Daniel Joseph" <[GERLACHD@ECU.EDU](mailto:GERLACHD@ECU.EDU)>, "Locklear, Christopher" <[LOCKLEARC@ecu.edu](mailto:LOCKLEARC@ecu.edu)>, "Ayers, Megan Kint" <[AYERSM96@ecualumni.ecu.edu](mailto:AYERSM96@ecualumni.ecu.edu)>  
**Subject:** FW: RR-0839 - Responsive E-mails (00091583xD856D).pdf

Good evening,

Attached here are copies of the emails provided to News Services earlier today in order to have them provided to Bobby Burns at *The Daily Reflector*. These are emails from Heath Bowman's ECU email account referring to the Forty under 40 program. Some of these documents contain information that would be appropriately classified as confidential personnel records for Mr. Bowman. Because those documents were widely circulated earlier this year, redaction would have been somewhat awkward. To address

that I contacted Mr. Bowman about the disclosure and obtained his consent to releases them without redaction.

Thanks to Mr. Lewis for reminding me to distribute these copies to you.

If you have any questions or concerns, please let me know.

Kind regards,

Donna

Donna Gooden Payne  
East Carolina University  
Office: (252)328-6940; Mobile (910)733-5470

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**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 8:07 AM  
**To:** Jones, Beth  
**Subject:** Fwd: Transition Draft

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Tom Fetzer <Tom@fetzerlee.com>  
**Date:** October 24, 2019 at 7:59:24 AM EDT  
**To:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Subject:** Fw: **Transition Draft**

---

**From:** Tom Fetzer  
**Sent:** Tuesday, April 2, 2019 6:19 PM  
**To:** roper@northcarolina.edu <roper@northcarolina.edu>  
**Subject:** Fwd: Transition Draft

I'll have more details when we meet. Feel free to share Chris.

Tom Fetzer  
[Tom@fetzerlee.com](mailto:Tom@fetzerlee.com)  
919-280-9184

Begin forwarded message:

**From:** [tom@fetzerlee.com](mailto:tom@fetzerlee.com)  
**Date:** March 26, 2019 at 6:29:59 PM EDT  
**To:** [hs681v@gmail.com](mailto:hs681v@gmail.com)  
**Subject:** **Transition Draft**

Operation Rescue ECU

Overview

The timing of Staton's resignation (effective 3 May) will help ease the transition. The students will be gone and it is generally a quiet time on campus.

Announcement

Recommend the Interim Chancellor (IC) announcement be done Monday, 6 May, via a press conference with President Roper, Chairman Smith and the IC. To do so earlier will invite sympathy for Staton, engender more controversy while the students are still on campus and detract from graduation.

### IC's Remarks

“While I have not spent much time on campus yet and will meet later today with senior staff to develop priorities, I expect that our initial focus will be on operational issues: namely restoring the fiscal health and solvency of the institution and getting our enrollment levels back up. These two issues are intrinsically related and one cannot happen without the other.

We will be developing a plan to face these dual challenges in the days ahead. They are not the only challenges facing ECU, but they appear, at least at first blush, to be the most critical.

The Academic affairs of the university are in the good hands of the Provost, with whom I will meet later today.

This great and storied institution has endured two years of controversy and chaos. It is our mission to replace controversy and chaos with calm and stability. At the same time, we will create a bold vision for the future because we are not going to excavate ourselves out of the fiscal and enrollment ditches we find ourselves in by simply nibbling at the edges of the challenges that confront us. We must meet them head on.

East Carolina University deserves no less.

We must take care of this institution, but not simply become a caretaker. Interim is not an antonym for action and necessity requires us to act now. Together. With one purpose—to do what is best for this University and the region of the state that depends so heavily on its health and vitality.

I ask you to join in this effort.

Now is not the time to assign blame, take sides or bemoan the perils of the past.

Now is the time to unite the Pirate Nation in the promise of tomorrow.

I will only make one promise—that we're going to get a little better every day.

And we're going to keep doing that day in and day out.

To our students, parents, alumni, faculty and staff and to our colleagues and sister institutions throughout North Carolina, I offer these words...

(Inspirational quote)

### Restoring Fiscal Health

The IC will begin working in an office adjacent to the CFO. This is practical as well as symbolic. More than any other member of the senior leadership team, the IC and the CFO must come to an understanding of the problems, an understanding of each other and agreement how to move forward. And it sends a message that the IC is here to WORK, not engage in ceremonial activities in a fancy office.

The IC and the CFO, working in conjunction with the senior leadership team and department heads, will develop a plan to restore the fiscal health of the institution. The plan will be comprehensive, campus-wide and will undoubtedly require spending less money in many areas.

Gaining input and buy-in from faculty and staff across the campus will be difficult and painstaking but must be accomplished in 56 days so that the plan will be ready to submit to the new BOT when it is seated on 1 July, 8 weeks to the day

from the IC announcement press conference.

## Restoring Enrollment

In many ways, this is the more difficult and intractable of the two most pressing challenges and the one that may take longer to fix.

A. Begin with an in depth analysis of admissions history, admissions processes and the Admissions office. Personnel changes and revamping the Admissions office may be required and quickly.

B. Launch a marketing campaign entitled:

“ ECU Wants You”

aimed at prospective applicants with a focus on the counties that have provided the most enrollees previously.

A lynchpin of this campaign will be personal appearances by the Chancellor, senior staff and faculty at feeder high schools throughout eastern North Carolina.

A typical visit will look something like this:

-drop by the local newspaper for a visit

-speak to a select group of high school students who are college bound as identified by the high school guidance counselors

-meet with past or prospective donors in the community.

We will ask local ECU alumni to personally follow up with individual students in their community and encourage them to apply to ECU.

As with the financial plan, the enrollment plan must be ready to present to the new BOT by 1 July.

## Timeline for IC

### Week 1

a) meet with faculty department by department, beginning with the Arts and Humanities and continuing thru the Sciences, Business School, Medical School, Dental School.

It's an extraordinary effort, but the campus is facing extraordinary times

b) meet with or call top donors to ECU

c) meet with or call key alumni

d) meet with or call key community leaders

e) spend 2 hours each day working on fiscal and enrollment plans

### Week 2

Continue a-e

f) go to at least one high school and speak to prospective students, the Principal, guidance counselors

### Week 3

Continue a-f  
g) meet with key members of the Legislature

Week 4

Continue a-f  
Develop initial draft of fiscal and enrollment plans

Weeks 5-7

Continue a-f

Week 8

Prepare final draft of fiscal and enrollment plans for BOT

Tom Fetzer  
[Tom@fetzerlee.com](mailto:Tom@fetzerlee.com)  
919-280-9184





---

**From:** Tom Fetzer <tom@fetzerstrategicpartners.com>  
**Sent:** Thursday, October 24, 2019 8:10 AM  
**To:** Jones, Beth  
**Subject:** Fwd: CB Report

**EXTERNAL EMAIL: Open Attachments and Links With Caution.**

Sent from my iPhone

Begin forwarded message:

**From:** Angela Moss <angela.moss@hotmail.com>  
**Date:** September 19, 2019 at 8:01:40 PM EDT  
**To:** Tom Fetzer <Tom@fetzerlee.com>  
**Subject:** Fwd: CB Report

Begin forwarded message:

**Resent-From:** <[AngelaECU@hotmail.com](mailto:AngelaECU@hotmail.com)>  
**From:** Tom Fetzer <[tom@fetzerlee.com](mailto:tom@fetzerlee.com)>  
**Date:** July 30, 2019 at 4:53:58 PM EDT  
**To:** "Miller, Fielding" <[Fielding.Miller@captrust.com](mailto:Fielding.Miller@captrust.com)>  
**Cc:** Robert Moore <[rileyoutdoor@gmail.com](mailto:rileyoutdoor@gmail.com)>, Jason Poole <[jason@trpcpa.com](mailto:jason@trpcpa.com)>, Vern Davenport <[vern.davenport@gmail.com](mailto:vern.davenport@gmail.com)>, Leigh Fanning <[leighfanningecu@gmail.com](mailto:leighfanningecu@gmail.com)>, Vince <[smithv84@hotmail.com](mailto:smithv84@hotmail.com)>, Max Joyner <[mjoyner@towneinsurance.com](mailto:mjoyner@towneinsurance.com)>, Angela ECU <[AngelaECU@hotmail.com](mailto:AngelaECU@hotmail.com)>, Thomas Furr <[tpfurr@gmail.com](mailto:tpfurr@gmail.com)>, Phil Lewis <[lewisphil54@gmail.com](mailto:lewisphil54@gmail.com)>, SGAPRESIDENT <[SGAPRESIDENT@ecu.edu](mailto:SGAPRESIDENT@ecu.edu)>, Bob Plybon <[rplybon@plybon.com](mailto:rplybon@plybon.com)>, Jim Segrave <[Jsegrave@flyexclusive.com](mailto:Jsegrave@flyexclusive.com)>, Dan Gerlach <[GERLACHD@ecu.edu](mailto:GERLACHD@ecu.edu)>, Megan Kint Ayers <[AYERSM@ecu.edu](mailto:AYERSM@ecu.edu)>, Harry Smith <[hs681v@gmail.com](mailto:hs681v@gmail.com)>  
**Subject:** Re: CB Report

I'm gratified to hear that the requested meeting has been scheduled but puzzled as to why it took a week to accede to the request.  
What I find remarkable is the intense campaign that some of you waged to avoid having this meeting.  
I've gotten reports from some BOT members who were lobbied and pressured to rescind their request for a meeting. Some were even contacted by high level members of the ECU administration, including the Athletic Director, asking them to withdraw the request for a meeting.  
This clandestine effort apparently went on for several days.

As your BOG liaison, I must say that it is wholly inappropriate for university staff to ask BOT members NOT to have a public meeting.

This is a dangerous blurring of the lines between the BOT, which directs policy and university administrators who execute policy.

Of equal importance, why was there such a concerted effort not to have this meeting?

The CB report is a public document which contains critically important and timely information which deserves a thorough and public vetting. It is also a report requested by the BOG. I want to assure you that the BOG is keenly aware and very concerned about issues at ECU, especially, but not limited to, the significant decline in key financial metrics, declining enrollment and an exponential increase in debt. All of which occurred in the last three years.

The BOG commissioned the CB report precisely because it was not getting accurate and timely information out of the previous ECU administration.

I do not speak for the entire BOG, but I think that if the BOG had been privy to the information contained in the CB report months ago, none of the existing ECU BOT members eligible for reappointment would have been considered for reappointment. Let's be clear, personnel and legal matters are appropriate subjects for closed session consideration— not so key and critical financial issues and information.

The students, faculty, alumni and the taxpaying citizens of North Carolina deserve to know what is in the CB report. They also deserve to know what we're going to do about it and when.

We have important work to do. Let's get on with it. But let's do it in public. We are a proud, storied, public institution owned by the citizens of North Carolina who have temporarily entrusted us with its care. They have a right to know how we're managing their asset, which is charged with the noble task of educating their young people.

Sent from my iPhone

On Jul 29, 2019, at 8:10 PM, Miller, Fielding <[Fielding.Miller@captrust.com](mailto:Fielding.Miller@captrust.com)> wrote:

If the meeting is on, I support it. I don't agree but we need stability now whether we agree or not. I can do Thursday late afternoon, otherwise I can't participate Thursday.

Onward!

Sent from my iPhone so please excuse the brevity of my responses and any typos

**J. Fielding Miller**

Chief Executive Officer

[fielding.miller@captrustadvisors.com](mailto:fielding.miller@captrustadvisors.com)

CAPTRUST Financial Advisors

[4208 Six Forks Road, Suite 1700](#)

[Raleigh, NC 27609](#)

[919.870.6822](tel:919.870.6822) (ext. 10229)

[919.604.2180](tel:919.604.2180) mobile

On Jul 29, 2019, at 6:41 PM, Robert Moore <[rileyoutdoor@gmail.com](mailto:rileyoutdoor@gmail.com)> wrote:

Jason, Fielding.

Per the bylaws there was a request made nearly 7 days ago now to have a special meeting. There are no unintended consequences of doing the right thing and doing the work of a public university in a public meeting. It is past time for Dan and staff to set this meeting so that we can have a short call about the CB report on Thurs. and talk about solutions at the meeting in September when the Pirates are 2-0.... there is no good reason to not have this meeting as soon as possible. This report has been available to the university staff for over 30 days and I am hopeful they are working on solutions as we speak.

Thanks so much and have a great evening.

Robert Moore  
Riley Outdoor, LLC  
Patriot Outdoor, Inc.  
252-521-7666 Mobile  
252-527-2223 Office  
252-379-0614 Fax

On Jul 29, 2019, at 6:11 PM, Jason Poole  
<[jason@trpcpa.com](mailto:jason@trpcpa.com)> wrote:

I would have to have a better understanding of the “unintended consequences “ before removing my request for the special meeting. I have heard there have been several members contacted to have the meeting request rescinded do to concerns that it could affect recruiting.

Personally I see it a good thing to go ahead and get the discussion out of the way and not having to be the main focus of our next regular board meeting. Is there anything new in the report? We have known for some time athletics and South Side expansion

would have significant deficits. Rip the bandaid off and get the discussion over so we can move forward with solutions.

Jason

Sent from my iPhone 5s

On Jul 29, 2019, at 5:25 PM, Miller, Fielding  
<[Fielding.Miller@captrust.com](mailto:Fielding.Miller@captrust.com)> wrote:

**This email is from an external sender. Use caution opening attachments or clicking links.**

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Good Evening Pirates,

I am reaching out regarding the recent request to hold a special meeting of our board to discuss the financial situation as presented from the CB report. Like many of you, I agreed that this would be a good idea when the request was made but now, after talking to university leaders, I don't think we should rush to have a meeting and we would be better off with a discussion at the September board meeting. Based on their feedback, I don't see the upside to having this meeting (we will be transparent at the board meeting) but there are some serious unintended consequences in

going this route. To be clear, this is specifically tied to athletics since that is my purview as committee chair - I don't have a strong opinion on the other areas in the report.

I suspect the report will get leaked soon enough and Dan will be ready to answer any from the media. BTW, I was contacted by the Reflector this morning asking me to comment on the straw poll we had (she attained the email thread via the freedom of information process) and I have no interest in talking with her – its water under the bridge and we need to move on.

Thanks everyone, lets get to work on righting the ship.

Best Regards,

Fielding

---

**J. Fielding Miller**  
Chief Executive Officer  
[fielding.miller@captrust.com](mailto:fielding.miller@captrust.com)

**CAPTRUST** | 4208 Six  
Forks Road, Suite  
1700 | Raleigh,

NC 27609  
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transmission in error, please reply to  
the sender listed above immediately  
and delete this message from your  
system.



+1 (252) 413-8155 >

tomorrow PM.

Thu, Oct 24, 4:27 PM

Apologies, Donald. If you could let me know if doable tomorrow or not (if not then Monday) — I am happy with draft order to go by to put verbiage in and prep it up this end.

Thu, Oct 24, 6:39 PM

Hi, Donald. A UNC Board of Governors member is coming tomorrow (no objections at all from client) and I wondered if I could get FIVE (5) copies of DVD (\$25) when I come back over with signed order — if you are not there could you leave with your Asst.

I need copies for  
PBA // FOP // Local Chapters // UNC  
Board who they will forward to.

Friday 2:41 PM

Hi, Donald.



iMessage



## Donald Phillips

---

**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Thursday, October 24, 2019 7:55 PM  
**To:** Donald Phillips  
**Subject:** Re: REVISED: New Petition, Attachment A, and proposed Consent Order

Many thanks, Donald.

Would it be possible to let them know when I pick up the DVDs pursuant to the order, because at that point I will know that we had no last minute hiccups and also you can inform them, without any objections from me, that (if I can get the 5 copies -- I'll pay the \$25) a copy is either being sent / or is being given to the UNC Board of Governors (so that way they are fully apprised of where this went).

I also wondered (not just because it is a public record) if I could get a copy of the emails you sent to Mark and Ken Gray last week so that my clients can understand more fully why the courtesy calls were made to them, as they had made inquiries about the videos -- I doubt they will have any objections, nor should they as I know I would be very grateful for that courtesy.

I hope to be there at or around 10:30-10:45 and look forward to meeting you.

One final thing (again apologies) -- I know some folks don't have DVD players on their computers -- if I leave a flash drive there with your folks while over at the courthouse filing (it may have some other docs on) but do you think someone could also download onto there? It also makes it easier for me to make a copy onto my external HD which I use to back up.

Thanks again for all your help with this.

Very best wishes,

Peter

On Thu, Oct 24, 2019 at 5:43 PM Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)> wrote:

Peter:

Based upon our conversation a few moments ago, please find attached the revised Petition, Attachment A, and proposed Consent Order for your final approval.

As stated, I will be contacting Mark P. Henriques, Esq. of Womble Bond Dickinson (US) LLP (Attorneys for UNC System) and S. McKinley Gray, III, Esq. of Ward and Smith, P.A. (Attorneys for Dan Gerlach) tomorrow letting them know that this is being filed. City Attorney's Office will also be giving a courtesy call to ECU's General Counsel.



Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Donald Phillips  
**Sent:** Thursday, October 24, 2019 2:19 PM  
**To:** Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** New Petition and Appendix

Peter:

Please find attached your original proposed Petition and Appendix A and a revised Petition and Attachment A. I have also attached a proposed Consent Order for your consideration and review. What is the legal entity name of your “Fraternal Order of Police” client? I guessed that it is the one listed, but was not sure.

Please give me a call at your convenience to let me know your thoughts.

Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



**From:** Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)>

**Sent:** Wednesday, October 23, 2019 5:50 PM

**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Subject:** New Petition and Appendix

Many thanks for your assistance, Don!

Please see attached -- if you can let me know the the best day for you, as I say, I can be there this Friday or next Monday or Tuesday.

You have been very kind and helpful with all of this and I am extremely grateful to you for all you have done for me and for my clients (which group seems to be growing by the minute ) -- I look forward to going back to working with Hedge Funds as well as screening and recommending people for Judicial appointments (Federal and State -- especially if we do grow the number of Special Superior Court Judges for NC then I will have much more work in screening and selecting)

Very best wishes,

Peter

--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

---

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--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

## Donald Phillips

---

**From:** Donald Phillips  
**Sent:** Friday, October 25, 2019 12:45 PM  
**To:** Mark Holtzman; Emanuel D. McGirt; Shari S. Groccia; John Beardsley; Patina Oxendine; Mike Montanye  
**Cc:** Rhonda Wilkerson; April Alligood; Donald Phillips  
**Subject:** In Re PBA and FOP--Attorney Peter J. Romary  
**Attachments:** Petition.pdf; Consent Order (10.25.19).pdf; Acknowledgment of Receipt of DVD.pdf

**Re: Case Name:** **In the Matter of Custodial Law Enforcement Agency Recording Sought by: Police Benevolent Association of North Carolina, Inc. and North Carolina Fraternal Order of Police**

**Pitt County File No.:** 19 CVS 3050

**GPD Case File No.:** None

All:

Please find attached for your records a copy of the filings in this matter. A DVD has been provided to Mr. Romary.

Feel free to call me if you have any questions.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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STATE OF NORTH CAROLINA

File No.

19 CVS 3050

PITT County

In The General Court Of Justice  
Superior Court Division

IN THE MATTER OF 2019 OCT 25 A 9:35  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY: PITT CO., C.S.C.

Name Of Petitioner  
Police Benevolent Association of North Carolina, Inc. and  
North Carolina Fraternal Order of Police

Address  
c/o Peter J. Romary, Esq.  
Law Office of Peter Romary  
147 Ellsworth Manor Drive

City, State, Zip  
Hillsborough, NC 27278

Phone No. (919) 359-1103 Fax No. (919) 359-1192

Email Address  
peter.romary@qverity.com

PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING

- G.S. 132-1.4A(f) - Person authorized to receive disclosure  
(No Filing Fee Applies)
- G.S. 132-1.4A(g) - General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to Peter J. Romary, Attorney. State that at least some portion of the law enforcement agency recording was made in this county, and I further state the following: Petitioners request all relevant video/recorded footage from static/pole mounted (traffic/public safety) cameras covering the area of 1) East Fifth Street and Reade Street in Greenville, NC and 2) East Fifth Street and Cotanche Street in Greenville, NC between approximately 9:00 pm on Wednesday, September 25, 2019 and 2:30 am on Thursday, September 26, 2019 showing Mr. Dan Gerlach in this area and otherwise approaching, walking up to, entering a vehicle (believed to be a gold colored Nissan), and then driving away from said location. Petitioners more specific request for release is stated in Attachment A, which is hereby made a part of this Petition.

(Please see Attachment A)

(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

- Personal Delivery
- By Regular Mail, US postage prepaid, addressed as follows:

Mark R. Holtzman  
Chief of Police  
Greenville Police Department  
500 South Greene Street  
Greenville, NC 27834

Note: Also copied Assistant City Attorney Donald K. Phillips by email to: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY

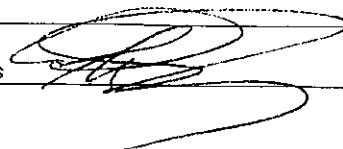
I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

- Personal Delivery
- By Regular Mail, US postage prepaid, addressed as follows:

The Honorable Faris C. Dixon  
Pitt County District Attorney  
Pitt County Courthouse  
100 West 3rd Street  
Greenville, NC 27858

Date  
10/25/19

Petitioner's Signature  
Peter J. Romary, Attorney for Petitioners



STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO.: 19 CVS 3050

COUNTY OF PITT

IN THE MATTER OF CUSTODIAL )  
LAW ENFORCEMENT AGENCY )  
RECORDING SOUGHT BY: )  
)  
POLICE BENEVOLENT ASSOCIATION )  
OF NORTH CAROLINA, INC. and )  
NORTH CAROLINA FRATERNAL )  
ORDER OF POLICE, )  
)  
Petitioners. )

ATTACHMENT A

As set forth in the Petition to which this Attachment is incorporated by referencce, it is requested that the City of Greenville/Greenville Police Department shall release, to Petitioners, by and through their attorney, Peter J. Romary, Esq., any and all footage/recordings from static/pole mounted (traffic/public safety) cameras as set forth below:

1. Footage of the area outside of the area of Sup Dogs (East Fifth Street/Reade Street), Greenville, NC between approximately 9:00 pm to 10:50 pm on Wednesday, September 25, 2019, particularly any footage showing Mr. Dan Gerlach.
2. Footage of the area outside of the area of Club 519 (East Fifth Street/Cotanche Street), Greenville, NC between approximately 10:40 pm on Wednesday, September 25, 2019 to approximately 1:30 am on Thursday, September 26, 2019, particularly any footage showing Mr. Dan Gerlach.
3. Footage showing the area of (East Fifth Street/Cotanche Street), Greenville, NC between approximately 1:40 am to 2:00 am on Thursday, September 26, 2019, particularly any footage showing Mr. Dan Gerlach.
4. Footage showing the area of 212 East Fifth Street (East Fifth Street/Reade Street), Greenville, NC between approximately 2:00 am to 2:30 am on Thursday, September 26, 2019, particularly any footage showing Mr. Dan Gerlach, especially footage of Mr. Dan Gerlach approaching, walking up to, and entering a vehicle (believed to be a Gold colored Nissan) and then driving away from said location.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF PITT

2019 OCT 25 A 10:03

FILE NO.: 19 CVS 3050

IN THE MATTER OF CUSTODIAL, C.S.C.  
LAW ENFORCEMENT AGENCY )  
RECORDING SOUGHT BY: )

CONSENT ORDER  
ON PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT  
AGENCY RECORDING  
N.C.G.S. § 132-1.4A(g)

POLICE BENEVOLENT ASSOCIATION )  
OF NORTH CAROLINA, INC. and )  
NORTH CAROLINA FRATERNAL )  
ORDER OF POLICE, )  
Petitioners. )

THIS MATTER came on to be heard before the undersigned Superior Court Judge upon the Petition for Release of Custodial Law Enforcement Agency Recording filed on October 25, 2019 by Petitioners, Police Benevolent Association of North Carolina, Inc. and North Carolina Fraternal Order of Police, pursuant to N.C.G.S. § 132-1.4A(g) to determine whether release of law enforcement agency recordings related to this matter is warranted under Chapter 132 of the North Carolina General Statutes.

APPEARANCES

For Petitioners: Peter J. Romary, Esq.  
The Law Office of Peter Romary  
147 Ellsworth Manor Drive  
Hillsborough, North Carolina 27278  
*Attorney for Petitioners.*  
*Police Benevolent Association of North Carolina, Inc. and*  
*North Carolina Fraternal Order of Police*

For Custodial Law Enforcement Agency and the Head of the Custodial Law Enforcement Agency: Donald K. Phillips  
Assistant City Attorney  
City of Greenville  
200 West Fifth Street  
Post Office Box 7207  
Greenville, North Carolina 27835  
*Counsel for City of Greenville (Greenville Police Department)*  
*and Designated Representative of Chief of Police Mark R. Holtzman (Head of Custodial Law Enforcement Agency)*

For Pitt County District Attorney's Office: None Appearing

**BASED UPON** the careful consideration of the arguments presented at the hearing of this matter and the entire record in this proceeding, the undersigned makes the following findings of fact.

### **FINDINGS OF FACT**

1. The Petitioners in this matter are Police Benevolent Association of North Carolina, Inc. and North Carolina Fraternal Order of Police (“Petitioners”). On October 25, 2019, on behalf of Petitioners, Petitioners’ attorney, Peter J. Romary, Esq. of The Law Office of Peter Romary (“Mr. Romary”), filed a Petition for Release of Custodial Law Enforcement Agency Recording pursuant to N.C.G.S. § 132-1.4A(g) on a form approved by the Administrative Office of the Courts (AOC-CV-270) (the “Petition”).

2. The City of Greenville (the “City”), is a municipal corporation organized and existing under the laws of the State of North Carolina.

3. Pursuant to Chapter 160A of the North Carolina General Statutes, the City has established, organized, and maintained an accredited law enforcement agency, the Greenville Police Department (“GPD”), with territorial jurisdiction and all law enforcement powers as authorized by statute, case law, and the common law of the State of North Carolina within the corporate limits of the City.

4. Petitioners seek footage from certain traffic/public safety cameras which are unrelated to any pending GPD criminal investigation.

5. The City and GPD consider Petitioners’ Petition to be a request for traffic/public safety cameras recordings, as defined by N.C.G.S. § 132-1.4A(a)(6), which are not public record pursuant to N.C.G.S. § 132-1.4(c) and N.C.G.S. § 132-1.4A(b), and of which GPD owns or leases or whose personnel operates the equipment that created the recordings at the time the recordings were made.

6. GPD is the custodial law enforcement agency at issue in this matter as defined by N.C.G.S. § 132-1.4A(a)(2).

7. On or about October 25, 2019, in accordance with N.C.G.S. § 132-1.4A(g), Petitioners served a copy of the Petition upon Mark R. Holtzman, GPD Chief of Police, the head of the custodial law enforcement agency (“Chief Holtzman”), and upon the Honorable Faris C. Dixon, District Attorney for Prosecutorial District 3A, Pitt County (“District Attorney Dixon”).

8. On or about October 25, 2019, the Petitioners also served a courtesy copy of same to Donald K. Phillips, Assistant City Attorney and the attorney for the City and GPD (“Mr. Phillips”).

9. In accordance with N.C.G.S. § 132-1.4A(g), Chief Holtzman (“the head of the custodial law enforcement agency”) was notified of the Petition and has been given an opportunity



to be heard, by and through his designated representative, Mr. Phillips (“and those persons, or their designated representative,” have been “given an opportunity to be heard”).

10. In accordance with N.C.G.S. § 132-1.4A(g), the City is unaware of any law enforcement agency personnel whose image or voice are in any of the recordings at issue. Accordingly, there are no law enforcement agency personnel subject to being notified and given an opportunity to be heard in this matter.

11. Each person entitled to be notified of this proceeding, was given an opportunity to be heard, either individually or by such person’s designated representative.

12. GPD has custody of the following seven (7) recordings, as defined by N.C.G.S. § 132-1.4A(a)(6), involving and/or related to Petitioners’ request and that are the subject of the Petition at issue:

<b>GPD Recording</b>				
<b>No.</b>	<b>GPD File Name</b>	<b>Date</b>	<b>Type</b>	<b>Time</b>
1.	TFC_GPD_5thReade_PTZ_R2 UPT_GPD_5thReade_Quad1_NE_R6a UPT_GPD_5thReade_Quad1_W_R6a	09/25/2019	Traffic/Public Safety Camera	9:20 pm-10:45 pm 9:20 pm-9:30 pm 9:20 pm-9:30 pm
2.	UPT_GPD_5thCotanche_Quad5_N_R6a UPT_GPD_5thCotanche_Quad5_E_R6a UPT_GPD_5thCotanche_Quad5_W_R6a	09/25/2019	Traffic/Public Safety Camera	10:41 pm-10:43 pm 10:41 pm-10:43 pm 10:41 pm-10:43 pm
3.	UPT_GPD_5thCotanche_Quad1_SE_R6a UPT_GPD_5thCotanche_Quad4_N_R6a UPT_GPD_5thCotanche_Quad4_S_R6a	09/25/2019	Traffic/Public Safety Camera	10:42 pm-10:46 pm 10:42 pm-10:46 pm 10:42 pm-10:46 pm
4.	UPT_GPD_5thCotanche_Quad4_SW_R6a UPT_GPD_5thCotanche_Quad4_W_R6a UPT_GPD_5thCotanche_Quad4_N_R6a UPT_GPD_5thCotanche_Quad4_S_R6a	09/26/2019	Traffic/Public Safety Camera	1:15 am-1:21am 1:15 am-1:21am 1:15 am-1:21am 1:15 am-1:21am
5.	UPT_GPD_5thCotanche_Quad1_S_R6a UPT_GPD_5thCotanche_Quad1_SE_R6a	09/26/2019	Traffic/Public Safety Camera	1:15 am-1:21am 1:15 am-1:21am
6.	UPT_GPD_5thCotanche_S_R2	09/26/2019	Traffic/Public Safety Camera	1:16am-1:17 and 1:47 am-1:56 am
7.	TFC_GPD_5thReade_PTZ_R2 TFC_GPD_5thReade_W_R2 UPT_GPD_5thReade_Quad1_NE_R6a UPT_GPD_5thReade_Quad1_W_R6a	09/26/2019	Traffic/Public Safety Camera	2:10 am-2:13 am

13. Herein defined GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 are City traffic/public safety camera “recordings,” as defined by N.C.G.S. § 132-1.4A(a)(6)(“[a] visual, audio, or visual and audio recording captured by . . . any other video or audio recording device . . .”). The parties agree and stipulate to the release of GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 in its entirety to Petitioners and Mr. Romary. The parties further agree and stipulate that GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 in their entireties as herein defined are relevant to Petitioners’ and Mr. Romary’s request and are subject to release to Petitioners as defined by N.C.G.S. § 132-1.4A(a)(7) as further ordered herein.

14. All recordings at issue in this matter were made entirely in Pitt County, North Carolina.

15. The Court did not conduct an in-camera review of any recordings at issue in this case.

**BASED UPON** the foregoing findings of fact, the undersigned makes the following conclusions of law.

### CONCLUSIONS OF LAW

1. The filing of this Petition is made in accordance with N.C.G.S. § 132-1.4A(g).

2. Each person entitled to be notified of the proceeding was given an opportunity to be heard, either individually or by such person’s designated representative.

3. To the extent that same exists, Petitioners have stated the date and approximate time of the activity captured in the recordings sought or have otherwise identified the activity with reasonable particularity sufficient to identify the recordings.

4. The Court has jurisdiction over the parties and the subject matter herein.

5. The Court has carefully reviewed N.C.G.S. § 132-1.4A in its entirety.

6. A “recording” is defined in N.C.G.S. § 132-1.4A(a)(6) as:

[a] visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.

7. “Release,” as defined by N.C.G.S. § 132-1.4A(a)(7), means “[t]o provide a copy of a recording.”

8. All of the recordings at issue (GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7) are records of criminal investigations and/or records of criminal intelligence information pursuant to N.C.G.S. § 132-1.4. Additionally, all recordings at issue are not public records pursuant to N.C.G.S. § 132-1.4(a) and N.C.G.S. § 132-1.4A(b). Accordingly, the recordings at issue contain information that is otherwise exempt from disclosure or release under North Carolina law.

9. Pursuant to N.C.G.S. § 132-1.4A(g), Petitioners and Mr. Romary seek release of all of the herein defined GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7.

10. N.C.G.S. § 132-1.4A(g) states in pertinent part:

In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

- (1) Release is necessary to advance a compelling public interest.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- (4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
- (5) Release may harm the reputation or jeopardize the safety of a person.
- (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- (8) There is good cause shown to release all portions of a recording.

11. The Court has considered the standards set out in N.C.G.S. § 132-1.4A(g) and other standards the Court deems relevant in determining whether to order the release of all or a portion of the recordings at issue.

12. Pursuant to N.C.G.S. § 132-1.4A(g), “[t]he court shall release only those portions of the recording that are relevant to the person’s request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.”

The Court does hereby **ORDER, ADJUDGE, and DECREE** as follows:

1. That by stipulation, the parties agree that the herein defined GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7, which are relevant to the Petitioners’ request, should be released, as defined by N.C.G.S. § 132-1.4A(a)(7), to Petitioners and Mr. Romary as further ordered herein.

2. That upon payment by Petitioners of \$5.00 per DVD to the City of Greenville, pursuant to N.C.G.S. § 132-1.4A(l) and *The City of Greenville Manual of Fees* (available at: <https://www.greenvillenc.gov/home/showdocument?id=6918>), with a copy of the receipt emailed

or otherwise provided to Mr. Phillips, GPD shall provide to Petitioners within ten (10) business days from the satisfactory receipt of said payment receipt, the requisite number of DVDs containing the contents and portions of GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 as herein identified and ordered.

SO ORDERED, this the 25 day of October, 2019.

Superior Court Judge Presiding

CONSENTED TO:

For Petitioners:

For Custodial Law Enforcement Agency and the Head of the Custodial Law Enforcement Agency:

Peter J. Romary, Esq.  
The Law Office of Peter Romary

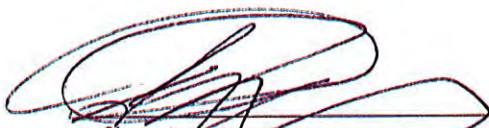
Donald K. Phillips  
Assistant City Attorney

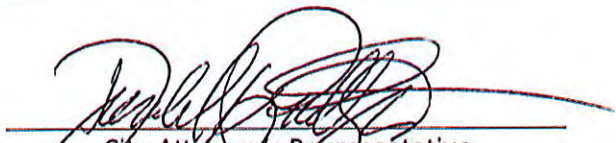
1118159v2

### Acknowledgment of Receipt of Items from City Attorney's Office

I, (your name) Peter Romary, by and on behalf of (complete if applicable) Petitioners, Police Benevolent Association of North Carolina, Inc. and North Carolina Fraternal Order of Police and their attorney Peter J. Romary, Esq. of the Law Office of Peter Romary, acknowledge the receipt of the following from the Greenville City Attorney's Office:

<input checked="" type="checkbox"/>	<p><b><i>In the Matter of Custodial Law Enforcement Agency Recording Sought By: Police Benevolent Association of North Carolina, Inc. and North Carolina Fraternal Order of Police (19 CVS 3050 ) regarding the October 25, 2019 Order on Petition for Release of Custodial Law Enforcement Agency Recording</i></b></p> <ul style="list-style-type: none"><li>• <b>One (1) DVD with seven (7) GPD Recordings as per the Order.</b></li></ul>
-------------------------------------	---

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
City Attorney's Representative

10/25/19 [1036]  
\_\_\_\_\_  
Date and Time

## Donald Phillips

---

**From:** Donald Phillips  
**Sent:** Friday, October 25, 2019 2:24 PM  
**To:** Henriques, Mark; Jones, Beth; Palko, David  
**Cc:** Donald Phillips  
**Subject:** REVISED PROPOSED: Petition, Attachment A, and proposed Consent Order  
**Attachments:** 1118271 - Petition for Release of LEA Recording--proposed Order--Atty.Beth Tyner Jones.Womble Bond Dickinson - 1 - COG.DOCX; 1118270 - Petition for Release of LEA Recording--Attachment A--Atty.Beth Tyner Jones.Womble Bond Dickinson - 1 - COG.DOCX; Petition\_for\_Release\_of\_LEA\_Recording--AOC-CV-270--Atty\_Beth\_Tyner\_Jones\_Womble\_Bond\_Dickinson.pdf

REVISED (ATTACHED)

Please see the revised documents attached. I understand that David will be bringing duplicate original Petitions (with Attachment A) and I will provide him with three (3) duplicate original proposed Consent Orders, which I will sign. David will then take those to Courthouse and then once the Consent Order is entered, will return to City Hall, provide me with a file-stamped copy of the Petition and Consent Order, pay the \$5.00, sign an acknowledgment of receipt, and then obtain one (1) DVD.

Please advise.

Thank you.  
Donald

**Donald K. Phillips**  
Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Donald Phillips  
**Sent:** Friday, October 25, 2019 2:13 PM  
**To:** Henriques, Mark <Mark.Henriques@wbd-us.com>  
**Cc:** Palko, David <David.Palko@wbd-us.com>; Jones, Beth <Beth.Jones@wbd-us.com>; Donald Phillips <DKPhillips@greenvillenc.gov>  
**Subject:** RE: PROPOSED: Petition, Attachment A, and proposed Consent Order

Will fix. Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>

**Sent:** Friday, October 25, 2019 2:13 PM

**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Cc:** Palko, David <[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>

**Subject:** RE: PROPOSED: Petition, Attachment A, and proposed Consent Order

Thank you. These look good. A saw one typo in petitioner. Should be "Carolina" instead of "Caroline."

David Palko, an attorney in our office, is on the way to your office to pick up the documents.

Thanks very much for your help.

Mark

**Mark Henriques**

Partner

Womble Bond Dickinson (US) LLP

d: 704-331-4912

m: 704-650-2496

e: [Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)

One Wells Fargo Center

Suite 3500

301 South College Street

Charlotte, NC 28202-6037



[womblebonddickinson.com](http://womblebonddickinson.com)



This email is sent for and on behalf of Womble Bond Dickinson (US) LLP. Womble Bond Dickinson (US) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practice law. Please see [www.womblebonddickinson.com/us/legal-notice](http://www.womblebonddickinson.com/us/legal-notice) for further details.

**From:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Sent:** Friday, October 25, 2019 2:03 PM  
**To:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** RE: PROPOSED: Petition, Attachment A, and proposed Consent Order

**Re: Case Name:** **In the Matter of Custodial Law Enforcement Agency Recording Sought by: Beth Tyner Jones, Esq. and Womble Bond Dickinson (US) LLP, P.A.**  
**Pitt County File No.:** 19 CVS \_\_\_\_\_  
**GPD Case File No.:** None

Mark and Beth:

As discussed earlier today, please find attached a draft Petition, Attachment A, and proposed Consent Order for your review and approval.

Please note that Ken Gray and Ward and Smith, P.A. (Attorneys for Dan Gerlach) will also be filing and submitting similar documents.

Please give me a call if any changes need to be made or if you or your team have any questions regarding logistics. My direct line is (252) 329-4331.

Thank you.  
Donald

**Donald K. Phillips**  
Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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If you as intended recipient have received this e-mail incorrectly, please notify the sender (via e-mail) immediately.



STATE OF NORTH CAROLINA  
COUNTY OF PITT

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO.: 19 CVS \_\_\_\_\_

IN THE MATTER OF CUSTODIAL )  
LAW ENFORCEMENT AGENCY )  
RECORDING SOUGHT BY: )  
BETH TYNER JONES, ESQ. and )  
WOMBLE BOND DICKINSON (US) LLP, )  
Petitioners. )

CONSENT ORDER  
ON PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT  
AGENCY RECORDING  
N.C.G.S. § 132-1.4A(g)

**THIS MATTER** came on to be heard before the undersigned Superior Court Judge upon the Petition for Release of Custodial Law Enforcement Agency Recording filed on October 25, 2019 by Petitioners, Beth Tyner Jones, Esq. and Womble Bond Dickinson (US) LLP, pursuant to N.C.G.S. § 132-1.4A(g) to determine whether release of law enforcement agency recordings related to this matter is warranted under Chapter 132 of the North Carolina General Statutes.

**APPEARANCES**

For Petitioners: Beth Tyner Jones, Esq. and  
Womble Bond Dickinson (US) LLP  
555 Fayetteville Street, Suite 1100  
Raleigh, North Carolina 27601  
*Petitioners*

For Custodial Law Enforcement Agency and the Head of the Custodial Law Enforcement Agency: Donald K. Phillips  
Assistant City Attorney  
City of Greenville  
200 West Fifth Street  
Post Office Box 7207  
Greenville, North Carolina 27835  
*Counsel for City of Greenville (Greenville Police Department) and Designated Representative of Chief of Police Mark R. Holtzman (Head of Custodial Law Enforcement Agency)*

For Pitt County District Attorney's Office: None Appearing

**BASED UPON** the careful consideration of the arguments presented at the hearing of this matter and the entire record in this proceeding, the undersigned makes the following findings of fact.

### **FINDINGS OF FACT**

1. The Petitioners in this matter are Beth Tyner Jones, Esq. and Womble Bond Dickinson (US) LLP (“Petitioners”). On October 25, 2019, Petitioners, filed a Petition for Release of Custodial Law Enforcement Agency Recording pursuant to N.C.G.S. § 132-1.4A(g) on a form approved by the Administrative Office of the Courts (AOC-CV-270) (the “Petition”).

2. The City of Greenville (the “City”), is a municipal corporation organized and existing under the laws of the State of North Carolina.

3. Pursuant to Chapter 160A of the North Carolina General Statutes, the City has established, organized, and maintained an accredited law enforcement agency, the Greenville Police Department (“GPD”), with territorial jurisdiction and all law enforcement powers as authorized by statute, case law, and the common law of the State of North Carolina within the corporate limits of the City.

4. Petitioners seek footage from certain traffic/public safety cameras which are unrelated to any pending GPD criminal investigation.

5. The City and GPD consider Petitioners’ Petition to be a request for traffic/public safety cameras recordings, as defined by N.C.G.S. § 132-1.4A(a)(6), which are not public record pursuant to N.C.G.S. § 132-1.4(c) and N.C.G.S. § 132-1.4A(b), and of which GPD owns or leases or whose personnel operates the equipment that created the recordings at the time the recordings were made.

6. GPD is the custodial law enforcement agency at issue in this matter as defined by N.C.G.S. § 132-1.4A(a)(2).

7. On or about October 25, 2019, in accordance with N.C.G.S. § 132-1.4A(g), Petitioners served a copy of the Petition upon Mark R. Holtzman, GPD Chief of Police, the head of the custodial law enforcement agency (“Chief Holtzman”), and upon the Honorable Faris C. Dixon, District Attorney for Prosecutorial District 3A, Pitt County (“District Attorney Dixon”).

8. On or about October 25, 2019, the Petitioners also served a courtesy copy of same to Donald K. Phillips, Assistant City Attorney and the attorney for the City and GPD (“Mr. Phillips”).

9. In accordance with N.C.G.S. § 132-1.4A(g), Chief Holtzman (“the head of the custodial law enforcement agency”) was notified of the Petition and has been given an

opportunity to be heard, by and through his designated representative, Mr. Phillips (“and those persons, or their designated representative,” have been “given an opportunity to be heard”).

10. In accordance with N.C.G.S. § 132-1.4A(g), the City is unaware of any law enforcement agency personnel whose image or voice are in any of the recordings at issue. Accordingly, there are no law enforcement agency personnel subject to being notified and given an opportunity to be heard in this matter.

11. Each person entitled to be notified of this proceeding, was given an opportunity to be heard, either individually or by such person’s designated representative.

12. GPD has custody of the following seven (7) recordings, as defined by N.C.G.S. § 132-1.4A(a)(6), involving and/or related to Petitioners’ request and that are the subject of the Petition at issue:

<b>GPD Recording</b>				
<b>No.</b>	<b>GPD File Name</b>	<b>Date</b>	<b>Type</b>	<b>Time</b>
1.	TFC_GPD_5thReade_PTZ_R2 UPT_GPD_5thReade_Quad1_NE_R6a UPT_GPD_5thReade_Quad1_W_R6a	09/25/2019	Traffic/Public Safety Camera	9:20 pm-10:45 pm 9:20 pm-9:30 pm 9:20 pm-9:30 pm
2.	UPT_GPD_5thCotanche_Quad5_N_R6a UPT_GPD_5thCotanche_Quad5_E_R6a UPT_GPD_5thCotanche_Quad5_W_R6a	09/25/2019	Traffic/Public Safety Camera	10:41 pm-10:43 pm 10:41 pm-10:43 pm 10:41 pm-10:43 pm
3.	UPT_GPD_5thCotanche_Quad1_SE_R6a UPT_GPD_5thCotanche_Quad4_N_R6a UPT_GPD_5thCotanche_Quad4_S_R6a	09/25/2019	Traffic/Public Safety Camera	10:42 pm-10:46 pm 10:42 pm-10:46 pm 10:42 pm-10:46 pm
4.	UPT_GPD_5thCotanche_Quad4_SW_R6a UPT_GPD_5thCotanche_Quad4_W_R6a UPT_GPD_5thCotanche_Quad4_N_R6a UPT_GPD_5thCotanche_Quad4_S_R6a	09/26/2019	Traffic/Public Safety Camera	1:15 am-1:21am 1:15 am-1:21am 1:15 am-1:21am 1:15 am-1:21am
5.	UPT_GPD_5thCotanche_Quad1_S_R6a UPT_GPD_5thCotanche_Quad1_SE_R6a	09/26/2019	Traffic/Public Safety Camera	1:15 am-1:21am 1:15 am-1:21am
6.	UPT_GPD_5thCotanche_S_R2	09/26/2019	Traffic/Public Safety Camera	1:16am-1:17 and 1:47 am-1:56 am
7.	TFC_GPD_5thReade_PTZ_R2 TFC_GPD_5thReade_W_R2 UPT_GPD_5thReade_Quad1_NE_R6a UPT_GPD_5thReade_Quad1_W_R6a	09/26/2019	Traffic/Public Safety Camera	2:10 am-2:13 am

13. Herein defined GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 are City traffic/public safety camera “recordings,” as defined by N.C.G.S. § 132-1.4A(a)(6)(“[a] visual, audio, or visual and audio recording captured by . . . any other video or audio recording device . . .”). The parties agree and stipulate to the release of GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 in its entirety to Petitioners. The parties further agree and stipulate that GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 in their entireties as herein defined are relevant to Petitioners’ request and are subject to release to Petitioners as defined by N.C.G.S. § 132-1.4A(a)(7) as further ordered herein.

14. All recordings at issue in this matter were made entirely in Pitt County, North Carolina.

15. The Court did not conduct an in-camera review of any recordings at issue in this case.

**BASED UPON** the foregoing findings of fact, the undersigned makes the following conclusions of law.

**CONCLUSIONS OF LAW**

1. The filing of this Petition is made in accordance with N.C.G.S. § 132-1.4A(g).
2. Each person entitled to be notified of the proceeding was given an opportunity to be heard, either individually or by such person’s designated representative.
3. To the extent that same exists, Petitioners have stated the date and approximate time of the activity captured in the recordings sought or have otherwise identified the activity with reasonable particularity sufficient to identify the recordings.
4. The Court has jurisdiction over the parties and the subject matter herein.
5. The Court has carefully reviewed N.C.G.S. § 132-1.4A in its entirety.
6. A “recording” is defined in N.C.G.S. § 132-1.4A(a)(6) as:  
  
[a] visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
7. “Release,” as defined by N.C.G.S. § 132-1.4A(a)(7), means “[t]o provide a copy of a recording.”

8. All of the recordings at issue (GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7) are records of criminal investigations and/or records of criminal intelligence information pursuant to N.C.G.S. § 132-1.4. Additionally, all recordings at issue are not public records pursuant to N.C.G.S. § 132-1.4(a) and N.C.G.S. § 132-1.4A(b). Accordingly, the recordings at issue contain information that is otherwise exempt from disclosure or release under North Carolina law.

9. Pursuant to N.C.G.S § 132-1.4A(g), Petitioners seek release of all of the herein defined GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7.

10. N.C.G.S. § 132-1.4A(g) states in pertinent part:

In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

- (1) Release is necessary to advance a compelling public interest.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- (4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
- (5) Release may harm the reputation or jeopardize the safety of a person.
- (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- (8) There is good cause shown to release all portions of a recording.

11. The Court has considered the standards set out in N.C.G.S. § 132-1.4A(g) and other standards the Court deems relevant in determining whether to order the release of all or a portion of the recordings at issue.

12. Pursuant to N.C.G.S. § 132-1.4A(g), “[t]he court shall release only those portions of the recording that are relevant to the person’s request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.”

The Court does hereby **ORDER, ADJUDGE,** and **DECREE** as follows:

1. That by stipulation, the parties agree that the herein defined GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7, which are relevant to the Petitioners’ request, should be released, as defined by N.C.G.S. § 132-1.4A(a)(7), to Petitioners as further ordered herein.

2. That upon payment by Petitioners of \$5.00 per DVD to the City of Greenville, pursuant to N.C.G.S. § 132-1.4A(1) and *The City of Greenville Manual of Fees* (available at: <https://www.greenvillenc.gov/home/showdocument?id=6918>), with a copy of the receipt emailed or otherwise provided to Mr. Phillips, GPD shall provide to Petitioners within ten (10) business days from the satisfactory receipt of said payment receipt, the requisite number of DVDs containing the contents and portions of GPD Recording Nos. 1, 2, 3, 4, 5, 6, and 7 as herein identified and ordered.

**SO ORDERED**, this the \_\_\_\_\_ day of October, 2019.

---

Superior Court Judge Presiding

CONSENTED TO:

For Petitioners:

For Custodial Law Enforcement Agency and  
the Head of the Custodial Law Enforcement  
Agency:

---

Beth Tyner Jones, Esq.  
Womble Bond Dickinson (US) LLP

---

Donald K. Phillips  
Assistant City Attorney

1118271



STATE OF NORTH CAROLINA

File No. 19 CVS

PITT County

In The General Court Of Justice Superior Court Division

IN THE MATTER OF CUSTODIAL LAW ENFORCEMENT AGENCY RECORDING SOUGHT BY:

PETITION FOR RELEASE OF CUSTODIAL LAW ENFORCEMENT AGENCY RECORDING

Name Of Petitioner

Beth Tyner Jones, Esq. and Womble Bond Dickinson (US) LLP

Address

c/o Womble Bond Dickinson (US) LLP 555 Fayetteville Street Suite 1100

City, State, Zip

Raleigh, NC 27601

Phone No.

(919) 755-8177

Fax No.

(919) 755-6075

Email Address

beth.jones@wbd-us.com

[ ] G.S. 132-1.4A(f) - Person authorized to receive disclosure (No Filing Fee Applies)

[X] G.S. 132-1.4A(g) - General (CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to Beth Tyner Jones, Attorney State that at least some portion of the law enforcement agency recording was made in this county, and I further state the following: Petitioners request all relevant video/recorded footage from static/pole mounted (traffic/public safety) cameras covering the area of 1) East Fifth Street and Reade Street in Greenville, NC and 2) East Fifth Street and Cotanche Street in Greenville, NC between approximately 9:00 pm on Wednesday, September 25, 2019 and 2:30 am on Thursday, September 26, 2019 showing Mr. Dan Gerlach in this area and otherwise approaching, walking up to, entering a vehicle (believed to be a gold colored Nissan), and then driving away from said location. Petitioners' more specific request for release is stated in Attachment A, which is hereby made a part of this Petition.

(Please see Attachment A)

(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

CERTIFICATE OF SERVICE ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

- [X] Personal Delivery
[ ] By Regular Mail, US postage prepaid, addressed as follows:

Mark R. Holtzman
Chief of Police
Greenville Police Department
500 South Greene Street
Greenville, NC 27834

Note: Also copied Assistant City Attorney Donald K. Phillips by email to: dkphillips@greenvillenc.gov

CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

- [X] Personal Delivery
[ ] By Regular Mail, US postage prepaid, addressed as follows:

The Honorable Faris C. Dixon
Pitt County District Attorney
Pitt County Courthouse
100 West 3rd Street
Greenville, NC 27858

Date

October 25, 2019

Petitioner's Signature

Beth Tyner Jones



## Donald Phillips

---

**From:** Jones, Beth <Beth.Jones@wbd-us.com>  
**Sent:** Friday, October 25, 2019 7:52 PM  
**To:** Donald Phillips  
**Cc:** Mike Montanye; Henriques, Mark; Palko, David  
**Subject:** RE: REVISED PROPOSED: Petition, Attachment A, and proposed Consent Order

**Importance:** High

Donald -

I am writing to confirm our oral request that we communicated to you approximately an hour ago in regards to preserving camera footage. You instructed that we put this request in writing to you and I am doing so immediately.

Specifically, we ask that you preserve camera footage for September 25 and 26, 2019. In addition to the specific time segments/cameras on the attachment to the consent order, we request that you preserve footage for September 25, 2019 at 10:46 p.m. until 1:14 a.m. September 26 on these cameras:

UPT\_GPD\_5thCotanche\_Quad1\_SE\_R6a  
UPT\_GPD\_5thCotanche\_Quad4\_N\_R6a  
UPT\_GPD\_5thCotanche\_Quad4\_S\_R6a

In addition to the cameras on the consent order listed above, we would ask that you preserve all cameras reflecting the following:

1. Footage of the area outside of the area of Sup Dogs (East Fifth Street/Reade Street), Greenville, NC between approximately 9:00 pm to 10:50 pm on Wednesday, September 25, 2019.
2. Footage of the area outside of the area of Club 519 (East Fifth Street/Cotanche Street), Greenville, NC between approximately 10:40 pm on Wednesday, September 25, 2019 to approximately 1:30 am on Thursday, September 26, 2019.
3. Footage showing the area of (East Fifth Street/Cotanche Street), Greenville, NC between approximately 1:40 am to 2:00 am on Thursday, September 26, 2019.
4. Footage showing the area of 212 East Fifth Street (East Fifth Street/Reade Street), Greenville, NC between approximately 2:00 am to 2:30 am on Thursday, September 26, 2019.

In addition, we request that you preserve any and all footage of the area outside Jack Brown's Beer and Burger Joint ( 805 Dickinson Ave.), Greenville, NC between approximately 11:30 a.m. to 4:00 p.m. from September 26, 2019

You indicated that these cameras were on automatic purge and that these may not be available; however, if we sent our request in writing, you would try to preserve them. Time is of the essence. We would ask that you would use every effort to do so. Please contact me at my number below if you have any questions about this request. Thank you in advance for your assistance.

Beth

**Beth Tyner Jones**

Partner  
Womble Bond Dickinson (US) LLP

d: 919-755-8177  
m: 919-632-2774  
e: [Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)

555 Fayetteville Street  
Suite 1100  
Raleigh, NC 27601



[womblebonddickinson.com](http://womblebonddickinson.com)



**From:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Sent:** Friday, October 25, 2019 3:29 PM

**To:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>; Palko, David <[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>

**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Subject:** RE: REVISED PROPOSED: Petition, Attachment A, and proposed Consent Order

I have met with Meagan Kiser and David Palko. They have the documents for filing and submission to the Court.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Donald Phillips

**Sent:** Friday, October 25, 2019 2:48 PM

**To:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>; Palko, David

<[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>

Cc: Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

Subject: RE: REVISED PROPOSED: Petition, Attachment A, and proposed Consent Order

Ok. Will do.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>

**Sent:** Friday, October 25, 2019 2:29 PM

**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>; Palko, David <[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>

**Subject:** RE: REVISED PROPOSED: Petition, Attachment A, and proposed Consent Order

Would it be possible for you to print three copies there? David is already on the road and will be there in about 30 minutes.

Thanks

**From:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Sent:** Friday, October 25, 2019 2:24 PM

**To:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>; Palko, David <[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>

**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Subject:** REVISED PROPOSED: Petition, Attachment A, and proposed Consent Order

REVISED (ATTACHED)

Please see the revised documents attached. I understand that David will be bringing duplicate original Petitions (with Attachment A) and I will provide him with three (3) duplicate original proposed Consent Orders, which I will sign. David will then take those to Courthouse and then once the Consent Order is entered, will return to City Hall, provide me with a file-stamped copy of the Petition and Consent Order, pay the \$5.00, sign an acknowledgment of receipt, and then obtain one (1) DVD.

Please advise.

Thank you.  
Donald

**Donald K. Phillips**

Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



**From:** Donald Phillips  
**Sent:** Friday, October 25, 2019 2:13 PM  
**To:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>  
**Cc:** Palko, David <[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>; Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** RE: PROPOSED: Petition, Attachment A, and proposed Consent Order

Will fix. Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



**From:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>  
**Sent:** Friday, October 25, 2019 2:13 PM  
**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

Cc: Palko, David <[David.Palko@wbd-us.com](mailto:David.Palko@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>  
Subject: RE: PROPOSED: Petition, Attachment A, and proposed Consent Order

Thank you. These look good. A saw one typo in petitioner. Should be "Carolina" instead of "Caroline."

David Palko, an attorney in our office, is on the way to your office to pick up the documents.

Thanks very much for your help.

Mark

**Mark Henriques**  
Partner  
Womble Bond Dickinson (US) LLP

d: 704-331-4912  
m: 704-650-2496  
e: [Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)

One Wells Fargo Center  
Suite 3500  
301 South College Street  
Charlotte, NC 28202-6037



[womblebonddickinson.com](http://womblebonddickinson.com)



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**From:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Sent:** Friday, October 25, 2019 2:03 PM  
**To:** Henriques, Mark <[Mark.Henriques@wbd-us.com](mailto:Mark.Henriques@wbd-us.com)>; Jones, Beth <[Beth.Jones@wbd-us.com](mailto:Beth.Jones@wbd-us.com)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** RE: PROPOSED: Petition, Attachment A, and proposed Consent Order

**Re: Case Name:** In the Matter of Custodial Law Enforcement Agency Recording Sought by: Beth Tyner Jones, Esq. and Womble Bond Dickinson (US) LLP, P.A.  
**Pitt County File No.:** 19 CVS \_\_\_\_\_  
**GPD Case File No.:** None

Mark and Beth:

As discussed earlier today, please find attached a draft Petition, Attachment A, and proposed Consent Order for your review and approval.

Please note that Ken Gray and Ward and Smith, P.A. (Attorneys for Dan Gerlach) will also be filing and submitting similar documents.

Please give me a call if any changes need to be made or if you or your team have any questions regarding logistics. My direct line is (252) 329-4331.

Thank you.

Donald

**Donald K. Phillips**

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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If you as intended recipient have received this e-mail incorrectly, please notify the sender (via e-mail) immediately.

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If you as intended recipient have received this e-mail incorrectly, please notify the sender (via e-mail) immediately.



+1 (252) 413-8155 >

Monday 9:15 PM

Hi, Don.

Could you please call Tom Fetzer. He is on the UNC Board of Governors and (knowing I got videos) asked me to contact you - he said he has urgent questions.

Many thanks.

Tom Fetzer

TF >

Yesterday 4:30 PM

Hi, Donald.

Apologies for days of drama (I have my letters of engagement // scope of work from clients — so PBA release was abbreviated but I have all I need)

Understand that Womble lawyers were back today even after investigation was stopped.



iMessage

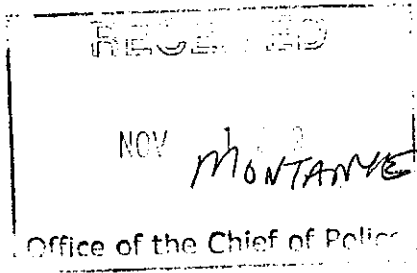


**From:** [Avaya Aura Messaging](#)  
**To:** [Donald Phillips](#)  
**Subject:** Voice Message from 2526957100 / "AOC PITT COURTH"  
**Date:** Tuesday, October 29, 2019 10:02:03 AM  
**Attachments:** [Audio Recording S1-218488\\_001\\_compand.wav](#)

---



Chief,  
This is the documentation  
you requested



Active 3h ago



## Peter Romary

You're friends on Facebook

Partner and General Counsel // Managing  
Partner, QVerity Legal at QVerity  
Lives in Greenville, North Carolina

OCT 7 11:27 AM

Hi, Michael.

Got asked by some folks at  
UNC system how they could  
get hold of footage from  
street cameras form Sup  
Dogs to 519 on evening of  
Wed 25??

Appears Gerlach has  
changed his story 4 times  
and it went from going from



Active 3h ago

changed his story 4 times  
and it went from going from  
Sup Dogs to 519 being lured  
as part of a set up by off duty  
cops who had been paid to  
set him up.

Sup Dogs have video (that  
would exonerate him) but  
have not produced it. 519 the  
same BUT street cameras  
would show who (if anyone)  
he left Sup Dogs with and  
who he arrived at 519 with.

They will have lawyer — can  
you let me know how.

Off to UK this PM though.

I do NOT like he accused  
cops of what would be a  
felony.



Attorney needs to complete a

Active 4h ago

Attorney needs to complete a request for disclosure to see the video or release to Paton a copy. The system will automatically purge after 30 days unless saved. I can begin looking I need to know the time frame?


OCT 7, 2:05 PM

Many thanks.

Wed 25 Sept from  
8pm-10:30pm.

If he has lied about these off duty LEOs (and I have no doubt he has because of change of story) then I hope he is fired for lying and impugning police.

Right now I've had people tell

  Active now  



Right now I've had people tell me that they BELIEVE this crap, that officers took \$\$ to break law.



Please do preserve if you would — there will be another lawyer I believe doing this. My concern here is LEOs and apology he will owe regardless as no way officers commit felony on order of some "dark cabal" or Judges etc. all part of the story made up.

OCT 9, 9:58 AM

Hi, Mike.

I have been asked by a group of very (putting mildly) angry Judges and also Bd of Governors and Politicians

Active now




Judges and also Bd of  
Governors and Politicians  
(incl one from DC) to  
personally get tapes for that  
night.

Cameras between Sup Dogs  
and 519 from about  
2040-2230.

If Gerlach is not seen with 2  
officers (at first he said he  
knew and then said were  
acquaintances and then he  
said he did not know) then  
while he may get reinstated  
this week but trouble will  
come soon.

They told me to watch and  
then I send to Tech friend to  
enhance quality if not best.

I think the "set up" rationale  
being a group of judges,

 Active 4h ago  

I think the "set up" rationale being a group of judges, trustees, politicians against him from Easley days who paid corrupt GPD cops — not a good move.

As an aside — please say hi to Tonya — we had professional differences as many do BUT always admired her as wicked smart and nice person.

Love pics of kids activities too — time flies my friend.

I am back in US this weekend and will contact you if OK — if you can look and let me know what you see that would be great.

Weird bars have not released

Active 4h ago

Weird bars have not released video of so called cops as Sup Dogs released stills of video of Gerlach at bar.

Oh, also — has anyone requested them yet?

If law firm for Gen Admin has not then that is bad.

I've seen no request for disclosure. I will reach out to a Donald Phillips when I get into the office

Thank you, my friend.

I'm actually glad others got in — if any GPD officers are accused of anything on this I have stated I will pay for protecting them (legally) and their reputations— I still give



Active 4h ago

their reputations— I still give pro bono advice to Greenville LEOs since my days with PBA // FoP and when officers were accused I got angry — very angry that Gerlach and others would dare say that let alone that any LEO would commit felony conspiracy with someone Gerlach's folks say is a drug dealing hooker.

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Active 7m ago


  
with someone Gerlach's folks say is a drug dealing hooker.

OCT 12, 9:53 PM

Hi, Michael:

I'm now back from UK and have been (quietly) retained in by some BoG folks to look behind law firm that was hired — they have had a LOT of work from UNC system and that's meant to be bid out.

I plan to pop down this week as have doctors check up, but will bring a flash drive for videos and will sign whatever forms are needed — I have the times and locations and can send in advance if that helps.



Active 8m ago

can send in advance if that helps.

I have just one more favor to ask.

Can you find out and let me know if anyone else has requested the surveillance videos from that night (Sup Dogs // 519 and / or in between).

I have a feeling these "investigators" have not been in to get them.

Many thanks,

Peter

PS — What is your policy for your youngest son on chocolate? I have some fine UK chocolate and if you're in

 Active 10m ago  



UK chocolate and if you're in can bring a bar for him (best in the world)

OCT 12, 9:59 PM

The Cttee on Audit // Risk Management and Compliance are more concerned with whether folks billing \$500+ per hour are doing proper job.

There are vacancies coming open in Gen Counsel role at ECU and others — I think some of these folks (between us) are looking to get into the trough — personally, I think they need people who know a little more about criminal law and trials — \$200-300K per year should have knowledge of what is illegal.



Active 15m ago

knowledge of what is illegal.

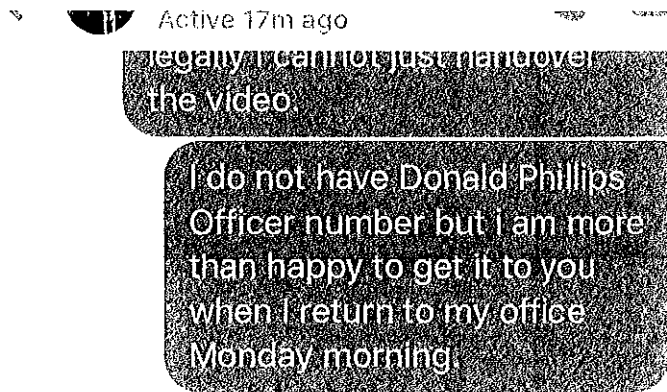
Many thanks for your assistance and let me know what I need to do when I come with flash drive.

From what I'm hearing — not many people were interviewed and not many tapes were asked for.



OCT 13, 8:17 AM


I have not seen nor received any request for September 25. I will have to direct you to our police attorney Donald Phillips for the release of any video. The information you are requesting has been found and saved to prevent purging. I am sorry but legally I cannot just handover the video.



Thanks, Michael.

No worries on that — I absolutely want to make sure I go through all the proper steps for it so that no one has any grounds for complaints on either side of this — my goal is not to take a side, just to get at facts.

I also have several officers (from different places) who are very upset that this "conspiracy theory" suggests illegal acts by

 Active 18m ago

suggests illegal acts by police — that I take seriously, very seriously (as its pure crap).

Thank you for your help — please do know I would never want you to cross any line. You are one of the finest officers I know and I have far too much respect for you (and also am pretty attached to my bar license and won't jeopardize it — when I chaired bar grievance Cttee I was under orders to relay any allegations of lawyer misconduct to Raleigh and that was the worst part of my job as many were grudge issues — and I would send a note of explanation many times — most were against DAs — always those who are LEOs or prosecutors or



Active 20m ago

always those who are LEOs or prosecutors or divorce lawyers — why I finally quit that role).

Many thanks my friend.

Also — offer is out there on chocolate for your young man. I have Cadbury Oreo bars — amazing and already told Marcy they are for others.

As my teaching and "Special Counsel" role expands I may come to Tonya also to see if she has interest in Uni Atty office — they need people who know litigation risks and when what is done breaks the law.



No worries. I never thought you were requesting anything





Active 21m ago

were requesting anything outside the lines of what his right. My office number is 252-329-3215 if I can be of any additional assistance.

OCT 13, 10:07 AM

Many thanks, my friend.

I'm going to reach out to Tonya when this mess is over — I work for Private Intel Contractor but also teach and give advice to UNC-BoG. My advice has been they need someone with litigation experience AND criminal law background in East (based in Greenville — likely ECU) to stop cover ups OR people breaking laws (say accusing officers of felony conspiracy etc).



Active 22m ago

officers of felony conspiracy etc).

She was actually #1 in my mind as DA experience combines both — it pays well and hours are better than most and maybe teach at same time.



OCT 15, 1:43 PM

Hi, Mike.

Left message and email for Donald.

I checked the law and these are public records so I'm going through the legal channel to get them.

Could I ask one more favor — aside from trying to trash LEOs — there have been



Active 24m ago

LEOS — there have been reports that Gerlach may have driven himself home that night (which would be lazy as he lives just up the street).

Would it be possible to preserve the video of parking lot in front of and behind // near Sup Dogs?

I'm making sure that Donald has the formal request and have told him I know that you are over Dept and have known you a while so that when all is good then I can liaise with you.

Because of the allegations that LEOs were involved in this "set up" — I may reach out to PBA // FoP and (as previous panel attorney)



Active 25m ago

Out to FDA // FOR and (as previous panel attorney) offer services (pro bono) as — if you remember back when I wrote letter to Rose Glover and gave it to papers demanding she apologize to cops and be censured for calling a group "murderers" — I find someone who has changed their story 4x and then settled on the "let's blame cops for setting me up" to be disgusting and he owes an apology.

My hope also is that maybe internal affairs can destroy this fantasy story — no cop I know would have done this. Further he said he went downtown last minute decision (so telepathy would have been needed) and also he could have said "no" to



Active 27m ago

he could have said "no" to anyone trying to lure him )at first they were "friends" finally became "people I never met before"



OCT 15, 4:33 PM


Hi, Mike.

Witness has him getting in Uber outside 5th Street Annex Bar. At 0151

At 0211 he comes back to his vehicle parked by Sup Dogs (unable to walk straight and swaying) and he gets in his car and drives off. That is early hours of Thurs 26th.

Could you please preserve those tapes.

So much for blaming the

 Active 29m ago



So much for blaming the police.


5th Street in front of 212 E 5th. From 0200-0230.

He admitted on radio he was drunk "had far too much to drink" and then video of him driving — wish you were head of traffic. If you had busted him, you would have sunk him!!



PBA and FoP (who you remember I worked for) — I have agreed to represent pro bono to get an apology from Gerlach for LEOs.

Please also let Tonya know that this may lead to some major changes at ECU because of the disgraceful

 Active 30m ago

because of the disgraceful way things were handled.

Back in the day I asked her and she agreed to be on Grievance Cttee — she is also an excellent litigator and has strong work ethic (evidenced by fact that Ms Robb was threatened by her).

I have given her name to some BoG friends as an excellent choice to be risk counsel for ECU (between us please) — recommended it would likely take about \$150-175K per year to get her and also retreat to tenure if she wished a step back at 9/12 of annual salary (as she would go from 12 months - 9 months pa).



OCT 16 10:33 PM



Active 36m ago

months pa).

OCT 16, 10:33 PM

Hi, Mike.

We spoke to Speaker Moore today and also I have been retained by the PBA.

Speaker Moore may well have a legislative subpoena issued for all tapes on Gerlach and / or we may join him seeking court order.

The legislature has constitutional oversight of Higher Education and Gerlach has a morals clause.

I know that all other tapes are being preserved. Could you please confirm that video from 212 E 5th Street from



Active 37m ago

from 212 E 5th Street from 0200-0230 showing him staggering drunk and getting in his car and driving off (drunk).

Witnesses place him there getting in car and driving. In fact Rep John Bell yesterday told the Speaker that he had been told Gerlach drove home (with video and his admission in interview he was drunk that would be enough for DWI if traffic unit could use it) — that said we cannot prove without it that no "conspiring cops" put him in the vehicle.

I understand he was also back outside Club 519 at 0150 (again Weds night - Thurs AM).



Active 38m ago

U15U (again Weds night - Thurs AM).

I know this all sounds crazy BUT the conspiracy doing rounds is that cops led him astray —

If you could let me know if you can preserve the video of him getting into car and driving was between 0200-0230 closest witnesses could get on Weds night but Thurs AM (25-26 Sept). I will then inform the Speaker and his office can make moves for this and PBA would tag on along with some others.

If an investigation is opened into his actions and / or whether by lying to press // students // stakeholders in



Active 40m ago

whether by trying to press //  
students // stakeholders in  
order to keep job (Obt Prop  
False Pretense) please let me  
know as I know that would  
change things.

Many thanks. Speaker is  
(apparently) very upset — as  
are many others.



OCT 17, 7:19 AM

All video related to the incident  
you are referring to has been  
saved. I handle disclosure  
request while Donald Phillips  
address all request for release.

Thanks so much, Mike.

A quick question -- as I am  
most interested in when he  
left Sup Dogs for 519 and  
when he got in car (between



Active 46m ago

left sup dogs for 519 and when he got in car (between 0200-0230 narrowest frame witnesses gave).

If I come to you with completed form with box checked that clients (PBA Officers) are in the video -- attaching a letter stating I have been retained by PBA and allegations are that officers are in videos (set up) but clients deny it and we need to see video to clarify this -- would that be enough for me to view?

Obviously, I would ask a PBA rep to come in and tell me if they can identify any officers in the videos, if the videos contain NO officers then I will make a note of times and places and leave to the



Active 47m ago

make a note of times and places and leave to the Speaker and / or staff at legislature to make any request via Donald.

My interest is in viewing and preserving (in case anyone later comes back and says anything else about LEOs).

I have another reason for doing this quickly, that being that Halloween is around the corner and with this "police set people up" lunacy going around I want to lay eyes on and be able to contact BoG and say (on behalf of PBA) -- NO officers are involved.

So, my signing the form stating "officers are on camera" would be with caveat that that is



Active 50m ago



caveat that that is information I have seen, heard and read BUT my clients deny it, hence the need to view.

It would be 2 short clips to look at. Is that sufficient for you, on form -- the written consent will be in the form of letterhead letter from me stating my retention by PBA and the name and contact of the Exec Director and recitation that I have been requested to do this on behalf of all members.



I would like to pop down tomorrow if this is permissible -- this is so "Alice in Wonderland" conspiracy theory but I have to be able to say

Active 51m ago

conspiracy theory but I have to be able to say

- 1) No officers took him anywhere or put him in a car to drive.
- 2) He drove and made choice to drive without any "rogue paid officer" around him.

-The form will need to be completed  
-You will need to check box indicating that you represent someone in the video  
-I'll need to confirm that the person you represent is seen and/or heard in the video (I currently don't know who you represent)  
-I can only disclose that portion of video where your client is seen or heard

1

Active 52m ago

seen or heard

1


I don't think, actually I know you're not going to get what you are after from disclosure. I have seen the entire evening of events

That emoji I just sent was accidental

That actually helps greatly -- I represent PBA and through them any and all GPD // Pitt Co LEOs who are in PBA (also getting FoP)

If you can just confirm by email to me that when he left Sup Dogs there were no police that you recognize with him. That



 Active 54m ago


recognize with him. That when he got into his car there were no police or anyone else with him either putting him in car or in the car with him?

If you can do that then there is no need for me to look at anything and all is good.

I just don't want anyone coming back and saying that off duty cops lured him to 519 or that off duty cops put him in vehicle at 0200-0230 and encouraged him to drive.

That I know can be legally done by you as it would not involve me viewing or having anything released to me.



 Active 57m ago  
having anything released  
to me.

peter.romary@qverity.com  
is my email.

Much easier if I don't view  
as statute only requires  
forms // court orders to  
view // release

All I need is (to clear up  
allegations for PBA  
standpoint):

In light of your  
representation of PBA and  
PBA officers I have  
reviewed the surveillance  
tapes --

When Mr. Gerlach left Sup  
Dogs for 519 at (time)  
there were no officers that  
I recognize with him.



Active 1h ago

I recognize with him.

When Mr. Gerlach entered his vehicle and drove at (time) there were no officers I recognize or other persons with him placing him in the vehicle or in the vehicle with him.



Then I won't need to request to view and can let others do whatever they do. It clears officers of being involved in what allegations say they did and I don't need view or release and I will NOT have seen videos.



Additionally, I am on vacation beginning at 330 pm today. I will be out of the country and not back to work until October 28th

Active 1h ago

28th

If you could just email clarifying no officers you recognize took / led Gerlach from Sup Dogs and no officers put him in his car or were in his car when he drove off then I am perfect and can just report that back to my clients and all is good.

They just wanted to know if ANY officers (off duty or on) led him to 519 for set up OR put him in vehicle, got ride from him or coerced him to drive. Those are areas where crimes get / have been alleged and they involve a lot of people (judges // politicians // lawyers // BoT members for ECU and BoG members for system).



Active 1h ago

members for system).

If you could shoot that to me "my work here is done" and I would be beyond grateful as I leave on Saturday too!!





Hope you are off somewhere nice!


Again -- it's peter.romary@qverity.com

I will owe you big time as it saves a trip to see what you have seen which is nothing -- and this way there is no need for you to go looking all through the night for any off duty cops (I don't want anyone who may have been out with a mate dragged into this simply because they were



 Active 1h ago   
simply because they were  
out for a beer).


OCT 28, 6:42 PM

 Hi, mike —  
Could you call Tom Fetzer  
(UNC-BoG: former Raleigh  
Mayor) he really needs to talk  
to you this evening if you  
can. 919-280-9184


OCT 26, 7:51 PM

Sorry was at sons soccer game  
What's it in reference

OCT 28, 8:21 PM

 It was video stuff I cannot  
answer but told him you were  
the man. BoG meet tomorrow  
— way above my level.


I called him

 Active 1h ago
   
 Mayor) he really needs to talk
   
 to you this evening if you
   
 can. 919-280-9184

OCT 28, 7:51 PM

Sorry was at sons soccer game
   
 What's it in reference

OCT 28, 8:31 PM


  
 It was video stuff I cannot
   
 answer but told him you were
   
 the man. BoG meet tomorrow
   
 — way above my level.



OCT 28, 9:27 PM





+1 (252) 413-8155 >

them off on Friday lunchtime // PM on way back through Raleigh they would "owe you one" — I wanted to let you know (with no impropriety meant as we have resolution worked out) that you will have many new friends in Raleigh (and in DC as I know Betsy DeVos' brother well and she has interest in Higher Ed and Admin— she loves folks with honor // integrity and who do the right thing) — her brother and I have worked together (with our company) for a long time.

So, thank you AND if you ever feel a desire to take the Judicial Road — let me know. I know my clients will be there Friday if I pop by — not sure when next there but regardless they will have your name.

You have been very kind — thank you.

Thu, Oct 24, 2:49 PM

Hi Donald



iMessage







+1 (252) 413-8155 >

you.

Thu, Oct 24, 2:49 PM

Hi, Donald

Apologies, any chance I could come and get the tapes tomorrow.

Apparently (I did not know) the allegations against police may have backing of some bar owners who want to push PD to "back off".

I have been asked to meet and chat with some folks with or connected to the ATF and chat about what has been said thus far and show tapes — this is PBA // Legislative move.

I know it means extra work to complete order but would be very, very grateful — I also have to meet and show Judge. He is in Raleigh tomorrow PM.

Thu, Oct 24, 4:27 PM



iMessage





+1 (252) 413-8155 >

PBA // POP // LOCAL CHAPTERS // GING  
Board who they will forward to.

Friday 2:41 PM

Hi, Donald.

The DVD you gave me does contain  
some  
files named Gerlach 1-7.

Running them through advanced  
software and even through a DVD  
player there are still pictures —  
some show a truck navigating a  
roundabout in mid afternoon —  
many show maps of places in  
Holland and some show bushes  
that are not in Greenville

Judge Cole said to contact him with  
any issues and so I'm going to send  
to him via Wetransfer so that he can  
get in touch as now I have lawyers  
believing I actually have films — I'm  
also off to the PBA now as they  
want what I have and I believe they  
may have FBI coming to get it.



iMessage





+1 (252) 413-8155 >

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Before getting with Judge Cole I would appreciate a call from your tech folks and if they would transfer to me via [Wetransfer.com](https://www.wetransfer.com) which the order would allow as it is giving me the videos.

I should be on my cellphone for the next 30 mins or so as I have to first go to post office to pick up medals that were sealed for 25 years.

I'd like to have these for PBA and anyone they have coming in — as I mentioned, this issue is a very serious one and I don't want more conspiracy theories doing the rounds.



iMessage





+1 (252) 413-8155 >

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Many thanks.

Monday 6:18 PM

Hi, Don.

Could you please call Tom Fetzer. He is on the UNC Board of Governors and (knowing I got videos) asked me to contact you - he said he has urgent questions.

Many thanks



iMessage





+1 (252) 413-8155 &gt;

Tom Fetzer

TF &gt;

Yesterday 4:30 PM

Hi, Donald.

Apologies for days of drama (I have my letters of engagement // scope of work from clients — so PBA release was abbreviated but I have all I need)

Understand that Womble lawyers were back today even after investigation was stopped.

Could you let me know which emails were entered into record and which Womble got via PRA or otherwise—again, I was informed that their work was done.

Many thanks — nothing I am embarrassed about in emails. Just need to speak to clients and inform them.



iMessage





+1 (252) 413-8155 >

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Thanks,

Peter



iMessage

